Supreme Court, U.S.
FILED

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In the
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM,1997

JOHN ARIUS,aka
JAN RICHARD KRAVANDER,
KRISTINA ARIUS
Petitioners,

vs.

WELLINGTON LOH,aka
HSIAO TUNG,
JON DOUGLAS CO.,
Respondents.

****

PETITION FOR A WRIT OF CERTIORARI

****

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172 pp

QUESTIONS PRESENTED

I.

WHETHER A DEFENDANT HAS A RIGHT TO DENY PLAINTIFF THE RIGHT TO HAVE A COUNSEL?

II.

WHETHER A DEFENDANT HAS A RIGHT TO DENY PLAINTIFF THE RIGHT TO HAVE A FAIR TRIAL?

III.

WHETHER A CROSS-DEFENDANT IN PRO PER HAS A RIGHT TO RESPOND TO THE ALLEGATIONS AND TO HAVE HIS VOICE HEARD IN THE COURT OF LAW?

TABLE OF CONTENTS

Index of Authorities iii
Opinions Below 1
Constitutional Provisions Involved 1
Introduction to Questions Presented 2
Reasons for Granting the Writ 3
    Question I 3
    Question II 7
    Question III 12
Statements of Facts 18
Discussion 22
Conclusion 24

Appendix A 25
Appendix B 65
Appendix C 85
Appendix D 103
Appendix E 151

INDEX OF AUTHORITIES

CONSTITUTIONAL PROVISIONS

Fourteenth Amendment to the
United States Constitution 1,24

OTHER AUTHORITIES

18 USC: 1503 Obstruction of justice ... 7,12
28 USC: 2106 Fraud on Court 7,12
18 USC: 371 Conspiracy 7,12
18 USC: 1504 Jury tampering in writing.... 10
42 USC: 1985 Conspiracy (Civil rights) ... 11

STATUTES

Cal.Code of Civ.Proc. §430.30.
Answer to complaint 13

(b) The answer to a complaint shall contain:
(1) The general or specific denial of the material allegations of the complaint controverted by the defendant.
(2) A statement of any new matter constituting a defense.
(e) If the defendant has no information or belief upon the subject sufficient to enable him or her to answer an allegation of the complaint he or she may so state in his or her answer and place his or her denial on that ground.
(g) The defenses shall be separately stated, and the several defenses shall refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished.

CASES 13

"A special demurrer on the ground that an answer is ambiguous, unintelligible or uncertain is insufficient unless the demurrer points out specifically wherein the pleading is ambiguous, uncertain or unintelligible." Coons vs. Thompson, 75 Cal App 2d 687.

"A verified answer, which in any part contains a distinct denial of a fact materiel to plaintiff's recovery, cannot, no matter how defective it may be, be treated as a nullity, so as to entitle plaintiff to a judgment on the pleading."Ghirardelli v. McDermott, 22 Cal 539.

"Though certain defenses by way of setoff are pleaded in the answer in a very informal and inartificial manner, yet, if the facts showing that they constitute valid claims against the plaintiff are sufficiently stated, the defense ought not to be struck out." Wallace v. Bear River etc. Mining Co. 18 Cal 461.

OPINIONS BELOW

The opinion of the California Court of Appeals is unreported and is appended as Appendix B.

The order by California Supreme Court denying Petition for Review was entered on April 23,1997.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

... No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the Unites States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction of equal protection of the laws.

INTRODUCTION TO QUESTIONS PRESENTED

It was unconstitutional of the local court of Appeal to grant a wealthy respondent immunity from his corruption of the judicial process, including corruption of petitioner's counsel of record. This resulted in that petitioner's rights were violated as he was prevented from participation in a fair judicial process (QUESTION I (A)).

Respondent, Wellington Loh, is now capitalizing on the granted immunity by again corrupting Appellant's most recent attorney (QUESTION I (B)).

When petitioner on June 23,1997 retained an attorney to prepare his Petition for a Writ of Certiorari, he had a sufficient amount of time to meet the July 22,1997 deadline.

After being deceived, abandoned, delayed and having depleted his limited legal budget, petitioner is now compelled to go back to a Pro Per status. It was first on July 17,1997 that he received a booklet containing the rules of this Court, leaving him with less than a week to conduct a simple research into the U.S.Constitution and to put this Petition together. Resulting in a technically severely handicapped pleading without a proper legal backup, bearing a title "Petition for a Writ of Certiorari" and hypothetically doomed to be thrown out of court by an average analyst. An Application to Justice Clarence Thomas has been necessitated due to the above circumstances.

REASONS FOR GRANTING WRIT

QUESTION I.

WHETHER A DEFENDANT HAS A RIGHT TO DENY PLAINTIFF THE RIGHT TO HAVE A COUNSEL?

(A).

Respondent Loh's corruption of the judicial process including corruption of appellant's counsel is indisputable. The evidence is over whelming. The appellate Brief (SECTION ONE) plus Brief Appendix,Vol.VI contain 45 INCIDENTS of Prejudice and Obstruction of Justice,

The Complaint for "Conspiracy to Defraud" filed on July 1,1997 (App. D) contains over 100 paragraphs mostly based on the trial transcript and showing an indisputable pattern of conspiracy between Respondent and appellant's counsel of record James McNamara.

The Los Angeles Court of Appeal's decision granting a wealthy respondent an immunity from corruption of his poor opponent's counsel is a travesty of justice. The local appellate Division (Five), completely covers up respondent's corruption of the judicial process.

Assistant justice Godoy-Perez engages in personal attacks on appellant, using many own (10), completely untrue statements and numerous mischaracterizations of his arguments (App. B).

Godoy-Perez attacks appellant for his diligence in uncovering the judicial corruption, by unjustly accusing him for "PILFERING" of respondent's admitted and handwriting expert verified trial message in which Loh instructs appellant's counsel how to act in a checkscheme played for the jury:

"NOT SHOW CHECK TO JURY FIRST - THEN McMera (Appellant's counsel McNamara) QUICKLY SLIP THROUGH THIS CHECK WITHOUT BEING NOTICED"

In her effort to exonerate McNamara's tax evasion, Godoy-Perez, goes so far that she even attacks appellant for bringing up the evidence.

Godoy-Perez accuses him for "hacking" in contradiction to the fact that the documents in question (Submitted to the court of Appeals) are not any computer outprints but genuine copies of McNamara's tax returns containing facsimile data: "03/07/94 19:58 8188887999 LEO F MCNAMARA" in the top portion of pages 2-12.

Page 1 of the exhibit, is an ORIGINAL of McNamara's letter in which he refers to these zero tax returns (pages 2-12) in order to avoid estate tax after his spouse's deceased father (double evasion). In the above zero tax returns McNamara lied to IRS about:

(1). His gross income;

(2). His "Charles Street,Moorpark" (single homes area) alleged business address, being in fact his home address;

(3). His "Ellenview" father's address [Cali- fornia Lawyer's directory under Leo F.McNamara the name also visible in the facsimile data), allegedly being his home address.

In spite of having knowledge of the above Godoy-Perez also provides the corrupted lawyer with a cover name by always referring to him as "John" McNamara. This with disregard to certain John McNamaras who are advertising with their addresses and phonenumbers, whereas the corrupted lawyer does not appear in any Yellow pages and is "hiding" in the 1996 California Lawyers' Directory under "James McNamara, Port Hueneme." with no address and NO PHONE NUMBER.

Godoy-Perez's ultra prejudicial opinion has created a paradoxical situation where several (5) pages of the petition space had to be used counter-productively for the sole purpose of defending her many untrue statements and attacks on the appellant.

The damage caused by Godoy-Perez is beyond repair. It is practically unrealistic to expect that a State Supreme Court analyst would have courage to agree with the petitioner's claims that the Court of Appeal in its opinion is deliberately covering up the lower court's corruption and obstruction of justice,

Petition for Review (App. A) was filed on March 10,1997, after a routine scrutiny by a clerk. However during the following days the Petition underwent an additional, most severe "scrutiny" by the Supreme Court local manager, who called the petitioner four (4) times, each time trying to discredit his petition with regard to his new name, pro-per status, fontstyle plus an additional request for the original proof of service.

It is obvious that the local office tried to stop the petition due to its incriminating content with regard to the appellate judges' cover up of the lower court's misconduct.

The question arises if the local Supreme Court office (connected by an inner door with the Court of Appeals) is capable of sending an embarrassing petition to a specifically appointed analyst, or deny a Petition locally? The name of the head of the State Supreme Court office (Robert Wandruff) appearing on the Petition Denial is the same name that appears on the door of the local office.

It is inconceivable that none of the 7 issues summarized next, had any merits, to even be considered by the State Supreme Court.

(I). THE COURT OF APPEAL'S ROLE IS NOT TO COVER UP THE LOWER COURT'S CORRUPTION AND OBSTRUCTION OF JUSTICE.

(II). THE COURT OF APPEAL'S ROLE IS NOT TO PUNISH THE APPELLANT FOR THE DISCLOSURE OF THE LOWER COURT'S CORRUPTION AMD OBSTRUCTION OF JUSTICE.

(III). THE COURT OF APPEAL MUST NOT DISMISS 100% REVERSIBLE 3/4 OF TRIAL ARGUMENT ONLY BECAUSE THE AMOUNT OF PREJUDICE AND OBSTRUCTION OF JUSTICE WAS SO ENORMOUS THAT IT COULD NOT BE DESCRIBED IN THE BRIEF SHARED BY THREE CASES.

(IV). THE COURT OF APPEAL MUST NOT APPROVE OF BRIEFS AND SWORN DECLARATIONS THAT CONTAIN FALSE STATEMENTS AND TOTALLY IGNORE APPELLANT'S REPLY POINTING THIS OUT.

(V). THE COURT OF APPEAL MUST NOT DEPRIVE A PARTY OF HIS CONSTITUTIONAL RIGHT TO ANSWER TO ALLEGATIONS ON THE GROUNDS THAT ANSWER IS A "RAMBLING DOCUMENT,SERVED LATE",PROVISIONS NOT DEFINED BY CALIF.CODE OF CIVIL PROCEDURE.
ONLY THE DEFAULT DIVISION SHOULD HANDLE MAILSERVICE.

(VI). THE COURT OF APPEAL MUST NOT DISCRIMINATE A PARTY IN PRO. PER. BY DISMISSING HIS FACTUAL AND LEGAL CONTENTIONS ON THE GROUNDS - THAT THEY ARE "INDECIPHERABLE".

(VII). THE COURT OF APPEAL MUST NOT IGNORE OR APPROVE OF DISCRIMINATION OF A WITTNESS BASED ON COLOR OF SKIN.

(B).

Respondent Loh is now capitalizing on the granted immunity from the previous corruption, by again corrupting Appellant's new attorney, retained in June of 1997, to amend complaint for "Conspiracy to defraud" (App. D), and to prepare this Petition for a Writ of Certiorari.

Respondent Loh's recent corruption of Petitioner's attorney is evident from the July 8, 1997 Request to Dismiss Motion filed with Dept. 23, and submitted here as Appendix E (Exhibits not reproduced at this time).

18 USC: 1503 Obstruction of justice
28 USC: 2106 Fraud on Court
18 USC: 371 Conspiracy

QUESTION II.

WHETHER A DEFENDANT HAS A RIGHT TO DENY PLAINTIFF THE RIGHT TO HAVE A FAIR TRIAL?

(1). The appellant's counsel was instrumental to respondent Loh in the bifurcation of a simple case: Complaint for breach of Contract versus Cross-Complaint. The trial transcript verifies that the judge never informed the jury that the case was bifurcated, and allowed Respondent's bifurcated Cross-Complaint's (TRANSACTION TWO) frivolous and completely UNCONTESTED allegations to DOMINATE the trial of the bifurcated Complaint (TRANSACTION ONE).

Also the QUESTIONS TO JURY did not represent Plaintiff's case as they were a mix of two separate, bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT).

Consequently the jury were deceived by being presented with and voting on a case that was not adjudicated for trial.

(2). The two side-bar conferences caught on record (Brief,p.14-16) show the conspiracy. During the first side-bar (TR.345-349) Respondent's counsel openly shared with all the judicial officers the secrets of her PLAN in which she coached her client TO PERJURE himself as to his alleged high image,

LOH: *"I purchased at county auction for $8,400."*

Judge: *"I will see counsel at the side-bar."*

Makin: *"I DIDN'T EXPECT HIM TO ANSWER THAT WAY when I asked him the question." "I don't know if THE JURY understands."*

Judge: *"Don't ask the same questions. Ask new stuff, if you have new stuff to ask, then ask it."*

Makin: *"I didn't EXPECT HIM to say again he bought it at auction. It goes to his SOPHISTICATION. I EXPECTED HIM TO TESTIFY HE WAS WANDERING DOWN THE STREET and there was this auction."*

"Your Honor what you will see within the next five,ten minutes MY PLAN. I went through it with him, ALL MY QUESTIONS IN MY PLAN is to fill in the gaps."

Judge: *"It doesn't sound like you are going to fill in the gaps asking him how he got the property"* (for $8,400 at a tax auction)

The judicial officers approved this based on PERJURY and PREJUDICE "PLAN",

During the second side-bar (TR.436;403-435) Respondent's counsel admitted to attacking appellant's character and the judge only cautioned her to "KEEP HER VOICE DOWN". The transcript shows a series of FOUR consecutive attacks on appellant's character with all the judicial officers full corroboration.

Godoy-Perez considers the above clearly demonstrated acts of obstruction of justice as normal side-bar conversations.

(3). Godoy-Perez doesn't see anything wrong or unusual in Respondent's trial message (trial exhibit 300) to his counsel: "NOT SHOW CHECK TO JURY first - then McMera QUICKLY SLIP THROUGH THIS CHECK WITHOUT BEING NOTICED"

by means of which Appellant's counsel received directives for a planned check-scheme designed to deceive the jury.

This in spite of the following evidence:

(A). Respondent's counsel in her appellate Response admitted to writing the trial message to his own lawyer. Respondent knows that the trial message can be positively tested for his fingerprints.

(B). Respondent's unique misspelling "attorney McMera" also occurs (all the 5 times) in the jury letters, in reference to McNamara.

(C). A HANDWRITING EXPERT evaluation also points to the authenticity of Respondent's message.

(D). McNamara's adoptive (by silence) admissions (one in court and one in writing) furthermore point to the authenticity of respondent's message.

(E). The appellate judges did not ask respondent's counsel about the CHECK-ORIGINAL, requested in appellant's REPLY, for the purpose of examination of the check's footnote (added to the check post factum).

This despite the fact that the subject check (trial exhibit 207), was fraudulently used in a check IMPEACHMENT SCHEME (TR.99) (impeachment on the content of the footnote "Building Permit for John") and with numerous references to it throughout the trial, including Respondent's Closing Statement.

Nor did the appellate judges ask judge Gold to release the TWO TIMES subpoenaed Bank of America copy of the subject check.

Furthermore, the appellate judges denied Appellant's THIRD SUBPOENA of the check, this time addressed directly to the presiding judge P.Turner and designated to the JANUARY 7,1997 APPELLATE HEARING.

It is evident that the Court of Appeals doesn't want to know the content of the check related to Respondent's trial message containing directives to appellant's counsel of record

(4). Godoy-Perez completely disregarded Loh's Jury Tampering efforts.

(A). The JURY TAMPERING incident is described in Brief,p.16-18.

The JURY LETTERS were DATED March 18,1994 and March 19,1994 that is during the Jury DELIBERATIONS which took place between March 17 and March 22,1994.

The content of both letters show that their clear intent was to prejudice the jurors against plaintiff and in favor of Defendant.

Godoy-Perez contends that the letters were signed by Mrs.Loh.

The fact is that Mrs.Loh in the first letter admitted to not knowing anything about the case until the trial start just a few days earlier. However, in the second letter dated on the following day, Mrs Loh seems to have a complete knowledge of the case by giving the jurors the exact interpretation of the Questions to Jury so that they would vote FOR RESPONDENT.

Mrs.Loh in her Deposition stated that she always signs anything her husband wants her to sign and never asks any questions.

Wellington Loh's unique, misspelling "McMera" occurs all the 5 times throughout the jury letters in reference to attorney McNamara.

Godoy-Perez also believes that Loh's jury letters, were only a "trial correspondence". 18 USC: 1504 Jury tampering in writing

(5). Godoy-Perez completely disregarded Loh's demonstrative tampering of a special surprise witness Garrett. Loh hired Garrett on November 12,1990, immediately after breaching the agreement with plaintiff.

(6). Godoy-Perez completely disregarded Loh's suppression of plaintiff's vital evidence and suppression of Loh's deposition. In her opinion she completely mischaracterizes appellant's argument contained in Brief,p.20,l.5;

"(C). TOTAL SUPPRESSION OF RESPONDENT'S 1992 DEPOSITION containing over 60 direct contradictions to FRAUD allegations contained in Respondent's $5,620,000 Cross-Complaint."

Godoy-Perez misquotes the above statement as "Appellant's deposition".

(7). Godoy-Perez completely mischaracterizes the 9TH Incident. The fact is that the final QUESTIONS TO JURY were changed without Plaintiff's knowledge.

The altered QUESTIONS TO JURY did not represent Plaintiff's case, as the QUESTIONS TO JURY were a mix of two separate, bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT). Consequently the jurors voted on a case that did not represent the transaction (COMPLAINT) that was adjudicated for trial.

(8). Appellant's subpoenaed Afro-American witness was not allowed to testify as it could jeopardize Respondent's prejudicial strategy in the context of jury composition where the majority of the jurors were Afro-Americans

Appellant's selection of an Afro-American builder for the prestigious Beverly Hills project, would potentially stop some of these jury members from perceiving plaintiff as a "bad guy", the negative image being created by respondent throughout the trial and based on the frivolous bifurcated cross-allegations that plaintiff was completely defenseless against.

42 USC: 1985 Conspiracy (Civil rights)

(9). After having disregarded and or mis characterized the first 10 incidents contained in the Brief, Godoy-Perez dismissed the remaining 35 incidents 75% of the trial argument, in disregard of Plaintiff's contentions that the prejudice and obstruction of justice related to the trial of Complaint was so profound that it couldn't be described within the 50 page brief, shared by three cases.

(10). In addition to the 45 INCIDENTS presented on appeal, plaintiff's over 100 paragraphs-transcript references contained in the Complaint for "Conspiracy to Defraud" (App. D), all show that the 1994 trial of the bifurcated Complaint was a TRAVESTY OF JUSTICE.

18 USC: 1503	Obstruction of justice
28 USC: 2106	Fraud on Court
18 USC: 371	Conspiracy

QUESTION III.

WHETHER A CROSS-DEFENDANT IN PRO PER HAS A RIGHT TO RESPOND TO THE ALLEGATIONS AND TO HAVE HIS VOICE HEARD IN THE COURT OF LAW?

(1). THE COURT OF APPEAL AFFIRMED A $576,000 DEFAULT JUDGMENT BASED ON RESPONDENT'S REPRESENTATION THAT APPELLANT'S ANSWER IS A "RAMBLING DOCUMENT" "SERVED LATE" TERMS NOT DEFINED BY CAL. CODE OF CIVIL PROC.

Appellant's Second Answer contained a misspelling of the verification date but it was filed and mailserved on OCTOBER 1,1991, on the 14TH DAY following the SEPTEMBER 17,1991 "15 days leave to amend" ruling. As the Answer was

mailserved late on the 14TH DAY, it could not technically be delivered to Respondent on the 15th day.

The "15 DAYS leave to amend" ruling does not specify that the mailserved Answer be delivered on the 15th day, nor does the California Rule of Court.

Appellant tried his best to comply with the rules of court but he was never informed by the court why his answer was disqualified as a "rambling document".

Respondent simply placed appellant in a Default because the main purpose of Loh's $5,620,000 Cross-Complaint was to EXTORT money from appellant's affluent broker who did not know any details of the case, whereas appellant's Answer disclosed in great detail the frivolous nature of the allegations. If the answer was not suppressed the case would have gone to a trial and the jury would dismiss respondent's grossly frivolous Cross-Complaint. This is also why the simple case had to be bifurcated prior to the trial of complaint.

The Court of Appeal believes Respondent's hearsay about appellant's answer being "served late",etc., despite the "MOUNTAIN OF EVIDENCE" pointing to respondent's massive corruption and obstruction of justice.

Cal.Code of Civ.Proc. @430.30.

Answer to complaint

CASES

"A special demurrer on the ground that an answer is ambiguous, unintelligible or uncertain is insufficient unless the demurrer points out specifically wherein the pleading is ambiguous, uncertain or unintelligible." Coons vs. Thompson, 75 Cal App 2d 687.

"A verified answer, which in any part contains a distinct denial of a fact material to plaintiff's recovery, cannot, no matter how defective it may be, be treated as a nullity,

so as to entitle plaintiff to a judgment on the pleading."Ghirardelli v. McDermott, 22 Cal 539.

"Though certain defenses by way of setoff are pleaded in the answer in a very informal and inartificial manner, yet, if the facts showing that they constitute valid claims against the plaintiff are sufficiently stated, the defense ought not to be struck out." Wallace v. Bear River etc. Mining Co. 18 Cal 461.

Appellant's Opening Statement (App. C) in its entire 30 MINUTES dealt with Respondent's Cross-Complaint, proving to the appellate judges that it was absolutely frivolous.

In the above Statement appellant also proved to the judges that Respondent's $175,000 legal extortion and both $576,000 Default Judgments were based on 1988 sales activities but founded on such grossly false ground as capitalizing on a 1991 crash in the real estate market, a year after the appellant was fired.

Appellant's Proposed Answer to Cross-Complaint supported by 44 EXHIBITS plus 46 of respondent's Trial and Depository sworn statements prove that ALL 76 Paragraphs containing substantial allegations are completely false.

EXAMPLE:

Respondent in his Deposition admitted that his only mental and physical suffering was "Double Vision and troubled foot", contrary to the allegations contained in Par.103-104,111-112, about being:

"injured in body by becoming emotionally distressed and physically ill, forced to seek medical attention and rest in bed";

EXAMPLE:

Respondent Lohs' allegations contained in Par.101,109:

"Cross-Defendants preyed upon the fact that Cross-Complainants were elderly and had difficulty with the English language.",

are CONTRADICTED by their responses to INTERROGATORIES showing that both Cross-Complainants have college degrees obtained in this country and the "elderly" Wellington Loh at the time (1988-1990) was actively involved in an 800 unit development project holding own presentations "in English" at the City hearings.

(IR.p.511.358)

Q: "Dr.Loh, you sound very knowledgeable on how, what it takes to get property developed is that true?

LOH: That's true, because I'm developing property at that time (1989-1990) *other than this."*

LOH: "I say that was referred to the Santa Clarita project I showed to Mrs and Mr Kravander they referred to the 800 units."

(2). THE COURT OF APPEAL AFFIRMED A $576,000 DEFAULT JUDGMENT AGAINST APPELLANT'S WIFE, DESPITE THE FACT THAT SHE WAS NEVER SERVED WITH RESPONDENT'S CROSS-COMPLAINT.

Kristina Arius was not allowed to say a word to her defense during the Default Prove-ups nor at the Jan.7,1997 appellate hearing.

The Court of Appeal believes respondent's hearsay contentions about his alleged Service of the Default pleadings despite the "MOUNTAIN OF EVIDENCE" pointing to a massive corruption and obstruction of justice on his part.

(3). THE COURT OF APPEAL MUST NOT DISMISS 100% REVERSIBLE 3/4 OF TRIAL ARGUMENT ONLY BECAUSE THE AMOUNT OF PREJUDICE AND OBSTRUCTION OF JUSTICE WAS SO ENORMOUS THAT IT COULD NOT BE DESCRIBED IN THE BRIEF SHARED BY THREE CASES.

The Court of Appeal dismissed 35 INCIDENTS or 75% of the trial argument, in disregard to plaintiff's contentions that the prejudice and obstruction of justice related to the trial of Complaint was so vast that it couldn't be described within the 50 page brief, shared by three cases.

Due to the space restraints the remaining 35 INCIDENTS or 77% of the argument had to be contained to the Appellant's Appendix.

These remaining, DISREGARDED 35 INCIDENTS contain crucial portions of the argument and together give a full picture of the enormous obstruction of justice and prejudice that took place during the 1994 trial of the Complaint.

These arguments contained such issues as:

(A). A complete coverage of the case bifurcation scheme, resulting in that the conspiring officers allowed respondent's BIFURCATED, frivolous Cross-Complaint (TRANSACTION TWO) to dominate the trial of the bifurcated Complaint (TRANSACTION ONE).

(B). Manipulation of the Questions to Jury and the Jury Instructions to accommodate respondent's bifurcated and UNCONTESTED Cross-allegations, resulting in that the jurors were completely unaware that they voted and decided on a case that was not adjudicated for trial.

(C). The judicial officers' prejudicial schemes designed to "elevate" respondent's "image" and to demean appellant's image.

(D). Grossly prejudicial opening and closing statements.

(E). Other acts of obstruction of justice such as discrimination of a witness based on a color of skin, and others.

The Court of Appeal rejected the remaining 75% of the trial argument, to "escape" a 100% reversible situation.

(4). THE COURT OF APPEAL MUST NOT APPROVE OF BRIEFS AND SWORN DECLARATIONS THAT CONTAIN FALSE STATEMENTS AND TOTALLY IGNORE APPELLANT'S REPLY POINTING THIS OUT.

The Court of Appeals completely disregarded appellant's Reply disclosing the following

A. RESPONDENT LOH'S BRIEF CONTAINED AS MANY AS FORTY FOUR (44) UNTRUE STATEMENTS.

B. RESPONDENT JDC'S BRIEF CONTAINED AS MANY AS THIRTEEN (13) UNTRUE STATEMENTS.

JDC's Brief was almost a replica of its Summary Judgment Declarations, containing as many false statements.

The California Court of Appeal should not ignore truthfulness of its lawyers' Briefs and sworn declarations.

(5). THE COURT OF APPEAL MUST NOT DISCRIMINATE A PARTY IN PRO PER BY DISMISSING HIS FACTUAL AND LEGAL CONTENTIONS ON THE GROUNDS THAT THEY ARE "INDECIPHERABLE".

THE COURT OF APPEAL DISMISSED APPELLANT'S COMPLAINT'S FACTUAL AND LEGAL CONTENTIONS AS "INDECIPHERABLE" AND INSTEAD BASED ITS "FACTS AND PROCEDURAL HISTORY" ON RESPONDENT'S CROSS-COMPLAINT'S CONTENTIONS, KNOWING THAT THEY WERE PROFOUNDLY FRIVOLOUS.

Godoy-Perez who seems to take pride in her East L.A. upbringing (Judicial Profile) should not discriminate people with linguistic limitations.

(6). The Court of Appeals reaffirmed the lower court's judgment granting respondent $163,205 in Attorney's Fees, based on the 1994 trial of the bifurcated complaint.

The Award was founded on an Attorney's Fees CLAUSE contained in a 6-27-1988 Listing Agreement to sell property, which expired on 12-20-1988 (a claim related to the bifurcated Cross-Complaint), whereas the trial of the bifurcated Complaint for breach of contract was founded on the 2-22-1989 Agreement to Develop property and lacking Attorney's Fees clause.

The Court of Appeals dismissed the above argument (11th Incident) together with 35 other incidents contained to the appellate appendix.

STATEMENT OF FACTS

The facts are described in detail in the appellate Brief,pages 1-11;26;38.

1975. Respondent acquired his 14.56 acre Beverly Hills property for $8,400 at a county tax auction;

JUN.18.1988 - DEC.15.1988. Listing Agreement to sell LOH's property. Price $7,500,000. After appellant discovered that the property was landlocked the value dropped substantially. Respondent still maintained the original price thus making a sale impossible.

AUG.17.1988 - DEC 15.1988. Escrow Agreement (90 plus 30 days) including that appellant would find access to property plus partners-lenders. Respondent would carry $3,000,000 as a 2nd T.D.

DEC.26.1988. Appellant found access to the property, for only $10,000;

FEB.22.1989. Respondent rejected prospective partner Barry Walshe and hired only appellant to develop the property jointly with Loh. Loh would receive $7.500.000 from the future sales proceeds.

FEB.22.1989 - OCT. 1990. Respondent wrote 23 checks for a total of $56,000 to contractors hired to develop Loh property.

OCT.1990. Respondent breached the agreement shortly before the first building permit by firing Appellant and secretly hiring another contractor, without compensating Appellant with as much as a single dollar for his 21 months worth of work plus $15,000 worth of own expenses. In doing so Loh received over $200,000 worth of improvements (estate designs, survey, geology,etc.) to his property for the price of only $56,000 paid directly to contractors.

OCT.1990. Respondent ruined appellant's career by writing an inquiring letter to the company's President Jon Douglas, with regard to the 1988 expired listing and soil test difficulties caused by the competing project BPE.

APR.4.1991. Appellant filed Complaint for Breach of Contract.

JUN.18.1991. Respondent filed $5.620.000 Cross-Complaint for Fraud,etc., aiming at Appellant's affluent broker JDC.

SEP.7.1991. JDC filed Cross-Complaint against appellant for Indemnity.

SEP.9.1991. Appellant filed Cross-Complaint against JDC for Abuse and Breach of Fiduciary duty.

DEC.2,1991. In order to extort from appellant's broker Jon Douglas, who didn't know any details of the case, respondent placed appellant's very detailed Answer to his Cross-Complaint in a Default, alleging that the Answer was a "RAMBLING DOCUMENT, SERVED LATE".

MAR.17,1992. 7 months later, Respondent included Appellant's wife as a ROE and placed her also in a Default despite the fact that she was never served with Cross-Complaint.

AUG.4,1992. Motion to Set Aside Default was denied.

JULY 1993. Bifurcation of the case. Respondent's Cross-Complaint was so grossly frivolous that Loh would inevitably lose if the cases were tried together. Therefore prior to the October 1993 scheduled trial the simple case had to be bifurcated.

The record proves that the BIFURCATION was a scheme and the bifurcated Cross-Complaint actually dominated the trial of the Complaint. The jury were not told that the case was bifurcated and were presented with and voted on a case that was not adjudicated for trial.

To succeed in the above scheme respondent needed a full corroboration from appellant's counsel. The 45 INCIDENTS OF OBSTRUCTION OF JUSTICE described in Brief (Section I), prove that such a corroboration took place to the greatest extent thinkable.

AUG.23,1994. Respondent was granted $163,000 in Attorneys'Fees, based on a JUN.1988 - DEC.1988 Listing Agreement's Attorneys' Fees Clause and despite the fact that the trial of the bifurcated Complaint was tried based on a FEB.22,1989 - OCT.1990 Agreement to Develop (NOT SELL) Loh property lacking any Attorneys' Fees clause.

Fall.1994. Respondent then used the trial and Default "achievements" as an argument to pressure appellant's broker, respondent JDC for a huge settlement.

Due to the Department of Justice intervention the case was transferred prior to the JANUARY 3,1995 planned settlement.

FEB.23.1995. After Appellant briefed the new judge about the Cross-Complaint being frivolous and extortional, Respondent rushed to settle only 2 days after the briefing (in the evening) and only 4 days prior to the FEB.27, 1995 scheduled Settlement, using another judge.

JAN.31.1996. Respondent Loh legally extorted $175,000 from respondent JDC.

JAN.31.1996. Respondent was also granted $576,000 in Default Judgment, against Appellant and $576,000 on Appellant's wife's Default in spite of the fact that she never was served with Cross-Complaint.

Both judgments were based on such false grounds as:

$520,000; attributed to a 10-1-1993 Appraisal capitalizing on the 1991 decline in the real estate market, despite the fact that respondent fired appellant in early November of 1990, when the market was an all time high. The author of the 10-1-1993 Appraisal, also falsely testified in court, claiming a "decline in property values between 1988 and 1990" contrary to DataQuicks' statistics showing a "30%-40% increase" during the stated perior of time.

$56,000; for the total value of checks issued by respondent directly to contractors (in their name) working on Loh property.

Respondent claims that these checks would reflect a "LOAN" to Appellant, lacking any written evidence supporting such a claim.

JAN.31.1996. Summary Judgment on appellant's Cross-Complaint against respondent JDC.

JAN.30.1997. Appeal (B101081) was denied raffirming three (3) judgments.

DISCUSSION.

QUESTION I.

WHETHER A DEFENDANT HAS A RIGHT TO DENY PLAINTIFF THE RIGHT TO HAVE A COUNSEL?

A civil litigant should have the right to be represented by an attorney.

It is a travesty of justice when a court of appeals immunizes a rich litigant from corruption of a poorer opponent's counsel. It also creates an absurd situation where a litigant does not dare to file a substitution of attorney until the day of a courthearing, so that his opponent would not have an opportunity to damage the attorney's morale and motivation prior to the hearing.

Respondent, apparently believes that a poor opponent should not have the right to have an attorney. He is wrong because this country's Constitution guarantees both the rich and the poor, an equal protection, and the right to the same due process.

QUESTION II.

WHETHER A DEFENDANT HAS A RIGHT TO DENY PLAINTIFF THE RIGHT TO HAVE A FAIR TRIAL?

The role and duty of the appellate court is to correct error and injustice committed by the lower court. When the court knowingly re-affirms error and injustice perpetrated by the lower court it loses its impartiality and becomes a mere instrument of the lower court.

QUESTION III.

WHETHER A CROSS-DEFENDANT IN PRO PER HAS A RIGHT TO RESPOND TO THE ALLEGATIONS AND TO HAVE HIS VOICE HEARD IN THE COURT OF LAW?

It is a travesty of justice to deny the accused of his or her constitutional right to answer to the allegations.

When the accused is prohibited to answer to the accusations and gets punished as a result thereof, then there is no justice.

The purpose of an appellate review is to assert justice based on the whole truth.

When a court of appeals knowingly rejects 3/4 of the truth it bases its opinion on a mere 1/4 of the truth.

Truthfulness of Briefs and sworn declarations is a must in the judicial process of administering of justice. When sworn statements don't reflect truth anymore, the court ceases its role as a finder of truth.

A litigant should not be discriminated for expressing his case in Pro Per.

When a party in Pro Per is denied his or her voice to be heard in the judicial process then the process becomes a mere instrument for those who can afford it, and not as it is intended to by the constitution, to serve all the people.

CONCLUSION

The questions raised in this Petition demonstrate that the decision of the Court of Appeals is unconstitutional (XIVth Amendment).

The Petition for a Writ of Certiorari should be granted.

Respectfully submitted

John Arius

John Arius, a.k.a
Jan Richard Kravander

Kristina Arius

Kristina Arius, a.k.a
Eva Kristina Kravander,
aka Eva Kristina Bulow

Dated: July 21,1997

APPENDIX A

CALIFORNIA STATE SUPREME COURT

APPELLATE CASE NO: B101081
Kravander vs. Loh

Petition for Review denied
April 23,1997.

In the Supreme Court
of the State of California

Case No.B101081

Jan Richard Kravander,
Plaintiff and Appellant,

vs.

Wellington Loh,JDC,
Respondents.

****

PETITION FOR REVIEW

****

To the Honorable Malcolm M.Lucas, Chief Justice,
and to the Honorable

Associate Justices of the Supreme Court of the
State of California:

John Richard Arius
355 North Lantana,#310
Camarillo,CA 93010
818-807-4649

TABLE OF CONTENTS

SUMMARY OF ISSUES PRESENTED FOR REVIEW 4

STATEMENT OF THE CASE 5

ISSUES PRESENTED FOR REVIEW 8

ISSUE I. THE COURT OF APPEAL'S ROLE IS NOT TO COVER UP THE LOWER COURT'S CORRUPTION AND OBSTRUCTION OF JUSTICE. 8

ISSUEE II.THE COURT OF APPEAL'S ROLE IS NOT TO PUNISH APPELLANT FOR THE DISCLOSURE OF THE LOWER COURT'S CORRUPTION AMD OBSTRUCTION OF JUSTICE. 16

ISSUE III.THE COURT OF APPEAL MUST NOT DISMISS 100% REVERSIBLE 3/4 OF TRIAL ARGUMENT ONLY BECAUSE THE AMOUNT OF PREJUDICE AND OBSTRUCTION OF JUSTICE WAS SO ENORMOUS THAT IT COULD NOT BE DESCRIBED IN A BRIEF SHARED BY 3 CASES. 19

ISSUE IV. THE COURT OF APPEAL MUST NOT APPROVE OF BRIEFS AND SWORN DECLARATIONS THAT CONTAIN FALSE STATEMENTS AND TOTALLY IGNORE APPELLANT'S REPLY POINTING THIS OUT. 23

ISSUE V. THE COURT OF APPEAL SHOULD NOT DEPRIVE A PARTY OF HIS CONSTITUTIONAL RIGHT TO ANSWER TO ALLEGATIONS ON THE GROUNDS THAT ANSWER IS A "RAMBLING DOCUMENT,SERVED LATE" PROVISIONS NOT DEFINED BY CODE OF CIVIL PROCEDURE. 24

ONLY THE DEFAULT DIVISION SHOULD HANDLE MAILSERVICE.

ISSUE VI. THE COURT OF APPEAL MUST NOT DISCRI- MINATE A PARTY IN PRO PER BY DISMISSING HIS FACT- UAL AND LEGAL CONTENTIONS ON THE GROUNDS THAT THEY ARE "INDECIPHERABLE". 27

ISSUE VII. THE COURT OF APPEAL MUST NOT IGNORE OR APPROVE OF DISCRIMINATION OF A WITTNESS BASED ON COLOR OF SKIN. 28

DISCUSSION 28

CONCLUSION 30

TABLE OF AUTHORITIES

CONSTITUTIONAL PROVISIONS

18 USC: 1504 Jury tampering in writing 11
18 USC: 1503 Obstruction of justice 15
28 USC: 2106 Fraud on Court 15
18 USC: 371 Conspiracy 15
42 USC: 1985 Conspiracy (Civil rights) 28

STATUTES

Code of Civil Procedure @430.20. Demurrer to answer. 24

Code of Civil Procedure @430.30. Answer to complaint. 24

(b) The answer to a complaint shall contain:
(1) The general or specific denial of the material allegations of the complaint controverted by the defendant.
(2) A statement of any new matter constituting a defense.
(e) If the defendant has no information or belief upon the subject sufficient to enable him or her to answer an allegation of the complaint he or she may so state in his or her answer and place his or her denial on that ground.
(g) The defenses shall be separately stated, and the several defenses shall refer to the causes of action which they are intended to

answer, in a manner by which they may be intelligibly distinguished.

CASES 24

"A special demurrer on the ground that an answer is ambiguous, unintelligible or uncertain is insufficient unless the demurrer points out specifically wherein the pleading is ambiguous, uncertain or unintelligible." Coons vs. Thompson, 75 Cal App 2d 687.

"A verified answer, which in any part contains a distinct denial of a fact materiel to plaintiff's recovery, cannot, no matter how defective it may be, be treated as a nullity, so as to entitle plaintiff to a judgment on the pleading."
Ghirardelli v. McDermott, 22 Cal 539.

"Though certain defenses, by way of set-off, are pleaded in the answer in a very informal and inartificial manner, yet, if the facts showing that they constitute valid claims against the plaintiff are sufficiently stated, the defense ought not to be struck out."
Wallace v. Bear River etc. Mining Co. 18 Cal 461.

To the Honorable Malcolm M.Lucas, Chief Justice, and to the Honorable Associate Justices of the Supreme Court of the State of California:

Appellant, Jan Richard Kravander, respectfully petitions this Honorable Court for review of the decision of the Court of Appeal, Second Appellate District, Division Five, filed on January 27,1997.

On December 14,1994, Appellant filed a Petition with Department of Justice and the Court of Appeal to stop the January 3,1995 scheduled Settlement-trial (legal extortion) between Respondents Wellington Loh and Appellant's broker JDC.

The Petition was denied by Division Five on December 19,1994.

Attorney General on the other hand acted on the Petition by stopping the planned legal extort ion with the result that judge H.A. Schneider was within 14 days transferred to Criminal Court and the case transferred to another department.

Appellant's Petition also disclosed the massive corruption and obstruction of justice that took place at the March 1994 trial. The judge's role was documented by Petition's Section II (19 Paragraphs) (APP.978). The trial transcript released after the Petition, furthermore disclosed the judge's other acts of obstruction of justice such as the BIFURCATION SCHEME.

On the judge's recommendation a former judge R.Amerian worked out the bifurcation of the extremely simple case: Appellant's Complaint for Breach of Contract versus Respondent's Cross-Complaint for Fraud,etc. The trial transcript verifies that the judge never informed the jury that the case was bifurcated, and was fully instrumental in allowing Respondent's bifurcated Cross-Complaint's

(TRANSACTION TWO) frivolous and completely UNCONTESTED allegations to DOMINATE the trial of the bifurcated Complaint (TRANSACTION ONE).

Consequently the jury were deceived by being presented with and voting on a case that was not adjudicated for trial.

The Court of Appeal covered up the judge's BIFURCATION FRAUD by striking 30 INCIDENTS OF PREJUDICE AND ONSTRUCTION OF JUSTICE of the argument dealing with the bifurcation fraud, on the grounds that they were contained to the Appendix, despite the fact that the obstruction of justice that took place at the trial was so enormous that it could not be meaningfully described in a Brief shared with two other cases [ISSUE III].

The Court of Appeal admits knowing [Opinion,p.8,footnote(6)] that the appeal B085750 previously had problems with the 50 page limit for only one case. It was the same judge panel Turner-Perez-Armstrong that a year earlier, dismissed the previous appeal on the grounds that no final judgment was reached in the remaining bifurcated actions.

The two side-bar conferences caught on record (Brief,p.14-16) prove the conspiracy. Respondent's counsel revealed to the judicial officers, her "PLAN" in which she coached her client to "LIE TO THE JURY" (to commit PERJURY) to certain events.

The Court of Appeal considers this demonstrative obstruction of justice as a normal discussion. ISSUE ONE of this Petition shows that Division Five does not care about the court record in their decisiveness to completely cover up and "exonerate" the judicial officers' and Respondent Loh's 1994 trial corruption.

On December 7,1996 Appellant wrote a Pleading letter to Department of Justice asking

that the case be transferred from Los Angeles appellate district based on concerns regarding local judiciary. The December 16,1996 response from the Department's analyst indicates that the letter did not reach the Attorney General.

The January 29,1997 response from the Governor's Office recommended instituting disciplinary proceedings with the Commission on Judicial Performance.

On February 24,1997 a new Pleading-Petition was submitted to Department of Justice and the Governor's Office, asking again that the case be transferred from Los Angeles Appellate jurisdiction, in reference to the Court of Appeal's recent decision.

The Court of Appeal's attempt to exonerate the local judiciary and to discredit Appellant is demonstrated by Godoy-Perez's vindictive attacks on Appellant for his diligence in uncovering the judicial corruption, by unjustly accusing him for "PILFERING" (stealing) of Respondent's admitted and handwriting expert verified trial message instructing Appellant's counsel how to act in a check scheme played for the jury: [ISSUE II (3)]

"NOT SHOW CHECK TO JURY FIRST - THEN McMera (Appellant's counsel McNamara) QUICKLY SLIP THROUGH THIS CHECK WITHOUT BEING NOTICED"

In addition to the massive fraud perpetrated on court during the 1994 trial, Respondent practiced fraud on court in the past, in the presiding judge P.Turner's former court (Brief,p.48).

The same judge Turner ("Baptist preacher", according to his judicial profile) seems now to "forgive" Respondent's repeated trial fraud and corruption. On the other hand the presiding judge does not seem to have any mercy toward the poor victim who during a year and a half, gave every penny that he had ($20,000) to a lawyer only to see him being bought by the wealthy (landlord) opponent.

The "forgiving preacher's" Court of Appeal is even exonerating the corrupted counsel's tax evasion, and falsely accusing Appellant for HACKING HIS WAY THROUGH" the counsel's computer files, despite the fact that the submitted tax-return forms are not any computer outprints but genuine FAX (inscripted) copies [ISSUE II (1)(2)]

SUMMARY OF ISSUES PRESENTED FOR REVIEW

(I). THE COURT OF APPEAL'S ROLE IS NOT TO COVER UP THE LOWER COURT'S CORRUPTION AND OBSTRUCTION OF JUSTICE.

(II). THE COURT OF APPEAL'S ROLE IS NOT TO PUNISH THE APPELLANT FOR THE DISCLOSURE OF THE LOWER COURT'S CORRUPTION AMD OBSTRUCTION OF JUSTICE.

(III). THE COURT OF APPEAL MUST NOT DISMISS 100% REVERSIBLE 3/4 OF TRIAL ARGUMENT ONLY BECAUSE THE AMOUNT OF PREJUDICE AND OBSTRUCTION OF JUSTICE WAS SO ENORMOUS THAT IT COULD NOT BE DESCRIBED IN THE BRIEF SHARED BY THREE CASES.

(IV). THE COURT OF APPEAL MUST NOT APPROVE OF BRIEFS AND SWORN DECLARATIONS THAT CONTAIN FALSE STATEMENTS AND TOTALLY IGNORE APPELLANT'S REPLY POINTING THIS OUT.

(V). THE COURT OF APPEAL MUST NOT DEPRIVE A PARTY OF HIS CONSTITUTIONAL RIGHT TO ANSWER TO ALLEGATIONS ON THE GROUNDS THAT ANSWER IS A "RAMBLING DOCUMENT,SERVED LATE"PROVISIONS NOT DEFINED BY CALIF.CODE OF CIVIL PROCEDURE.
ONLY THE DEFAULT DIVISION SHOULD HANDLE MAILSERVICE.

(VI). THE COURT OF APPEAL MUST NOT DISCRIMINATE A PARTY IN PRO PER BY DISMISSING HIS FACTUAL AND

LEGAL CONTENTIONS ON THE GROUNDS THAT THEY ARE "INDECIPHERABLE".

(VII). THE COURT OF APPEAL MUST NOT IGNORE OR APPROVE OF DISCRIMINATION OF A WITTNESS BASED ON COLOR OF SKIN.

STATEMENT OF THE CASE

The facts are described in detail in Brief,pages 1-11;26;38.

This is a classic case of an unscrupulous immigrant corrupting his way through the American justice system and getting REWARDED.

1975. Respondent acquired the property for 8,400 at a tax auction;

JUN.18,1988 - AUG.17,1988. Listing Agreement (180 days) replaced by:
AUG.17,1988 - DEC 15,1988. Escrow Agreement (90 plus 30 days).

FEB.22,1989. Respondent hired Appellant to Develop his property;

OCT.1990. Respondent breached the agreement by firing Appellant and secretly hiring another contractor without compensating Appellant with as much as a single dollar for his 21 months worth of work and his $15,000 worth of expenses. In doing so Respondent received at least $200,000 worth of improvements to his property for free.

APR.4,1991. Appellant filed Complaint for Breach of Contract.

JUN.18,1991. Respondent filed a $5,620,000 Cross-Complaint for Fraud,etc aiming at Appellant's affluent broker JDC, and claiming such damages as "severe emotional distress" caused by Appellant and his broker, who allegedly "preyed upon the fact that Respondent was

"elderly" and had difficulty with "English"".

In his 1992 deposition, Respondent admitted that the only damage to health that he knew about was "double vision and troubled foot". At the trial he also admitted that in spite of claiming being "elderly" he was at the time actively involved in a 800 unit project. Respondent in his Interrogatories also admitted that his "English" must have been good as he was college educated in this country.

September 7,1991. JDC Cross-Complaint for Indemnity.

September 9,1991. Cross-Complaint against JDC for Abuse and Breach of Fiduciary duty.

DEC.2,1991. Respondent placed Appellant's detailed Answer to Cross-Complaint in a Default in order to extort from JDC not knowing any etails of the case to defend the frivolous allegations.

MAR.17,1992. Respondent also included Appellant's wife as a ROE and placed her in a Default despite the fact that she never was served with Cross-Complaint.

AUG.4,1992. Motion to Set Aside Appellant's Default was denied.

JUL.1993. Because his Cross-Complaint was so grossly and grotesquely frivolous Respondent knew that he would lose if the cases were tried together. Therefore prior to OCT.1993 scheduled trial the extremely simple case had to be bifurcated.

1994 TRIAL. The record proves that the IFURCATION was a scheme and the bifurcated Cross-Complaint actually dominated the trial of Complaint. The jury were not told that the case was bifurcated and were presented with and voted on a case that was not adjudicated for trial.

To succeed in the above scheme Respondent needed a full corroboration from the judge and Appellant's counsel. The 45 INCIDENTS OF OBSTRUCTION OF JUSTICE described in Brief,Section I, prove that such a corroboration took place to the greatest extent thinkable.

AUG.23,1994. Respondent was granted $163,000 in Attorneys'Fees, based on a JUN.1988 - DEC.1988 Listing Agreement's Attorneys' Fees Clause and despite the fact that the trial of bifurcated Complaint was tried based on a FEB.22,1989 - OCT. 1990 Agreement to Develop (NOT SELL) Respondent's property, lacking any Attorneys' Fees clause.

Respondent then used the trial and Default "achievements" as an argument to pressure Appellant's broker JDC for a huge settlement.

Thanks to Attorney General's intervention the case was transferred prior to the JAN.3,1995 planned settlement which also had an inhibiting impact on the size of the extortion.

FEB.23,1995. After Appellant briefed the new judge about the Cross-Complaint being 100% frivolous and extortional, Respondent rushed to settle only 2 days after the briefing (in the evening) and only 4 days prior to the FEB.27,1995 scheduled Settlement, using another judge.

JAN.31,1996. Respondent legally extorted $175,000 from JDC.

JAN.31,1996. Respondent was granted $576,000 in Default Judgment against Appellant and $576,000 on Appellant's wife's Default despite the fact that she never was served with Cross-Complaint.

Both based on such false grounds as:

$520,000; attributed to a 10-1-1993 Appraisal capitalizing on the 1991 decline in the real estate market, despite the fact that Appellant was fired in October of 1990, when the market was record high. The author of the 10-1-1993 Appraisal, also falsely testified in

court, claiming a "decline in property values between 1988 and 1990" contrary to DataQuicks' statistics showing a "30%-40% increase".

$56,000; for the total value of checks issued by Respondent directly to contractors (in their name) working on his property.

Respondent claims that these checks reflected a "LOAN" to Appellant, lacking any written evidence supporting such a claim.

ISSUES PRESENTED FOR REVIEW

Appellant bring the following issues to this High Court:

(I). THE COURT OF APPEAL'S ROLE IS NOT TO COVER UP THE LOWER COURT'S CORRUPTION AND OBSTRUCTION OF JUSTICE.

(A). THE APPELLATE REVIEW IS A TOTAL EXONERATION OF RESPONDENT'S CORRUPTION OF PLAINTIFF'S COUNSEL AND THE JUDGE'S ACTS OF OBSTRUCTION OF JUSTICE.

GODOY-PEREZ: [Pages 8,9,10];

(1). According to her statement, Perez is aware that Respondent in his Brief admitted to writing the trial message to his own lawyer.

(2). A court approved HANDWRITING EXPERT evaluation (APP.1417) and McNamara's adoptive-judicial admissions (one in writing) furthermore prove the authenticity of Respondent's trial-message. (Brief,p.12)

(3). Appellant's Brief, pages 12-14, plus all the 45 INCIDENTS of Prejudice and Obstruction of Justice, ALL point to McNamara's UNDISPUTABLE

CORRABORATION with Respondent, and against his own client.

Respondent's UNDISPUTED trial message: (APP.1402) "NOT SHOW CHECK TO JURY first - then McMera QUICKLY SLIP THROUGH THIS CHECK WITHOUT BEING NOTICED" proves that Appellant's counsel received directives from Respondent for a planned check-scheme designed to deceive the jury.

(A). The appellate judges DID NOT ASK why Respondent's counsel FAILED to bring to the appellate hearin, the subject CHECK-ORIGINAL (APP.129) requested by Appellant's in his REPLY (page 1).

(B), The judges did not bother to ask judge Gold to release the TWO TIMES subpoenaed copy of the subject check, covered up by judge Gold during the entire year 1996 (Brief,p.33-35).

(C), Appellant's THIRD SUBPOENA ATTEMPT was made on DECEMBER 23,1996. This time the subpoenaed check was not addressed to judge Gold but directly to the appellate judge P.Turner with desiignation to the JANUARY 7,1997 APPELLATE HEARING.

The subpoena request was received by Division Five on DECEMBER 31,1997. The subpoena request was denied on JANUARY 10,1997.

(D). The subject check (APP.129) was also used in a check IMPEACHMENT SCHEME (TR.99 and Brief, p.12-14) with numerous references to it throughout the trial, including Closing Statement.

(E). Godoy-Perez is now attacking Appellant for the way he found Respondent's trial message [p.9,footnote] by grossly mischaracterizing the way as "pilfering" [ISSUE II (3)].

(4). 1ST SIDE-BAR CONFERENCE (Brief,p.14), TR.345-9];

During the above side-bar, Respondent's counsel openly shared with judge Schneider and Appellant's counsel the secrets of her "PLAN" in

which she coached her client TO LIE i.e. PERJURE himself in front of the jury so that the jurors would have a prejudicious opinion as to Respondent's alleged high image.

Makin: *"I DIDN'T EXPECT HIM TO ANSWER THAT WAY when I asked him the question."*

"I don't know if THE JURY understands."

Judge: *"Don't ask the same questions. Ask new stuff, if you have new stuff to ask then ask it."*

Makin: *"I didn't EXPECT HIM to say again he bought it at auction. It goes to his SOPHISTICATION. I EXPECTED HIM TO TESTIFY HE WAS WANDERING DOWN THE STREET and there was this auction."*

"Your Honor what you will see within the next five,ten minutes MY PLAN, I went through it with him, ALL MY QUESTIONS IN MY PLAN is to fill in the gaps."

Judge: *"It doesn't sound like you are going to fill in the gaps asking him how he got the property".*

The judge approved this based on PERJURY and PREJUDICE "PLAN", "ADVISING" Respondent's counsel to present her PLAN without Respondent's repeatedly admitting to the "incriminating" fact, that his $7,500,000 property, subject of $5,620,000 Cross-Complaint, was purchased by him for only $8,400 at a County Tax Auction.

(5). 2ND SIDE-BAR CONFERENCE [(Brief p.15), TR.436;403-435]:

Godoy-Perez is prejudicially referring here to Respondent's hearsay "threaten" statement [ISSUE II (8)] which technically caused the side-bar, but completely evading the content of this side-bar.

This side-bar deals with Respondent's counsel admitting to attacking Appellant's character and the judge's cautioning her to "KEEP HER VOICE DOWN". The FOUR (4) consecutive attacks on Appellant's character with the judge's prejudicial corroboration with these attacks are not even mentioned in Godoy-Perez's opinion.

(6). Gogoy-Perez DISMISSED 77% of trial argument dealing predominantly with the judge's many acts of obstruction of justice (ISSUE III).

(B). THE APPELLATE COURT TOTALLY DISREGARDED RESPONDENT'S ACTS OF JURY AND WITTNESS TAMPERINGS AND GROSSLY MISINTERPRETED THE 7TH, 8TH and 9TH INCIDENTS.

GODOY-PEREZ: [Page 9,line 20; Pages 11,12]:

(A). The JURY TAMPERING incident is described in Brief,p.16-18.

The JURY LETTERS (APP.752-5) are DATED March 18, 1994 and March 19,1994 that is during the Jury DELIBERATIONS which took place from March 17 to March 22,1994.

The content of both letters show that their intent was to prejudice the jurors in favor of the Defendant and against Plaintiff.

Godoy-Perez contends that the letters were written by Respondent Mrs.Loh. The fact is that Mrs.Loh in the first letter admitted to not knowing anything about the case until the trial that started just a few days earlier. In the second letter dated on the following day, however, Mrs Loh seems to have a complete knowledge of the case which she demonstrates by giving the jurors the exact interpretation of the Questions to Jury so that they would vote FOR RESPONDENT.

Mrs.Loh in her Deposition stated that she always signs anything her husband wants her to sign and never asks any questions.

Wellington Loh's unique, personal misspelling "McMera" (ISSUE I (A)) occurs 5 times throughout the jury letters, in reference to attorney McNamara.

18 USC: 1504 Jury tampering in writing

(B). The WITTNESS TAMPERING incident is described in Brief,page 19.

In spite of demonstrative and repeated protests from Plaintiff's wife, defendant and his counsel spoke to witness Garrett for at least 20 minutes prior to his court appearance, allegedly discussing FOOD. Godoy-Perez's contention: "*the undisputed evidence shows it was an unsuccessful attempt which caused Kravander no prejudice*" is not true. Garrett testimony shows that he was influenced and coerced to DENYING his involvement in the project contrary to the letter from L.A. City dated 11-12-1990 (APP.142) proving that Garrett was hired by Respondent in reference to the property, at the time of Respondent's Breach of Contract.

(C). 7TH INCIDENT:

The referred to portion of Appellant's argument does not say Appellant's deposition". It states "Respondent's deposition" [Brief,p.20, 1.5], which is a fundamental difference:

"*(C). TOTAL SUPPRESSION OF RESPONDENT'S 1992 DEPOSITION containing over 60 direct contradictions to FRAUD allegations contained in Respondent's $5,620,000 Cross-Complaint.*"

(D). 8TH INCIDENT:

The 8TH Incident is based on the Transcript showing that judge Schneider vehemently discouraged Appellant from pursuing with an appeal. It is not a normal practice of an impartial administer of justice to engage in this kind of arguing, including the persuasive "IT WILL COST YOU" argument used repeatedly, unless the judge is afraid of appeal. The 45 INCIDENTS OF PREJUDICE AND OBSTRUCTION OF JUSTICE show that the judge was highly instrumental and onsequently he had all reasons to discourage appeal.

(E). 9TH INCIDENT:

The stated opinion is a complete mischaracterization of the 9TH Incident.

Appellant's contention here is based on the fact that the final QUESTIONS TO JURY were changed without Plaintiff's knowledge.

The altered QUESTIONS TO JURY did not repre sent Plaintiff's case, as the QUESTIONS TO JURY were a mix of two separate, bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT). The judge never informed the jury that the case was BIFURCATED. Consequently the jurors voted on a case that did not represent the transaction (COMPLAINT) that was adjudicated for trial ISSUE III.

(C). THE COURT OF APPEAL AFFIRMED RESPONDENT'S $175,000 LEGAL EXTORTION AGAINST JDC DESPITE THE RECORD PROVING THAT THE $5,620,000 CROSS-COMPLAINT IS COMPLETELY FRIVOLOUS.

(1). December 14,1994 Petition (APP.973) pleaded to stop the January 3,1995 Settlement-Trial, a planned LEGAL EXTORTION targeting Appellant's broker JDC.

It was denied by Division Five on 12/19/1994, but thanks to the action of Department of Justice, judge Schneider was transferred prior to the January 3,1995 Settlement. The case was moved to Dept.18 and rescheduled to February 27,1995.

(2). On February 21,1995, Appellant briefed the new judge A.Gold about the Cross-Complaint being 100% frivolous and extortional. This resulted in that the judge rushed Respondent to settle with JDC on the evening of February 23,1995, only 2 days after the briefing and 4 days prior to the scheduled Settlement-Trial, using another judge. Considering the fact that the February 21,1995 letter was mailserved late that day, it could not reach the parties until noon of February 23,1995, thus leaving no time-frame for scheduling a meeting with another judge later that day.

This leads to an inference that the judge must have been instrumental in arranging such a meeting and that this would create an appearance that judge Gold was faced with the above "emergency" settlement post factum. [Brief,p.28]

(3). Appellant's Proposed Answer (APP. 31-160) to Cross-Complaint supported by 44 EXHIBITS, plus 46 of Respondent's Trial and Depository sworn statements proves that ALL 76 Paragraphs containing substantial allegations are false. (Brief,p.22)

(4). Appellant's Opening Statement during its entire 30 MINUTES dealt with Respondent's Cross-Complaint, proving to the appellate judges that it was absolutely frivolous. Here are a few examples quoted in the OPENING STATEMENT:

1ST 100% FRIVOLOUS EXAMPLE:

The fact that Respondent in his Deposition (APP,438) admitted that the allegations contained in Par.103, 104,111,112, about being *QUOTE:*

"injured in body by becoming emotionally distressed and physically ill, forced to seek medical attention and rest in bed"; were bogus allegations, and that his only mental and physical suffering was Double Vision and troubled foot

2ND 100% FRIVOLOUS EXAMPLE:

The fact that Cross-Complainant Mrs.Loh in her Answer to Interrogatories: *QUOTE "I do not have personal knowledge of the actions of Cross-Defendants or the damages incurred"* admitted that her allegations contained in Par.103,104,111,112, about being

"injured in body by becoming emotionally distressed and physically ill, to seek medical attention and rest in bed" were bogus allegations

3RD 100% FRIVOLOUS EXAMPLE:

The fact that Respondent's allegations contained in Par.101, 109: QUOTE:

"Cross-Defendants preyed upon the fact that Cross-Complain ants were elderly and, had difficulty with the English language.", are CONTRADICTED by their responses to INTERROGATORIES showing that both Cross-Complainants have college degrees obtained in this country and the elderly" Wellington Loh at the time (1988-1990) was actively involved in an 800 unit development project holding own presentations "in English" at the City public hearings.

(TR,p.511,358)

Q: "Dr.Loh, you sound very knowledgeable on how, what it takes to get property developed, is that true?

LOH: That's true, because I'm developing property at that time (1989-1990) *other than this."*

LOH: "I say that was referred to the Santa Clarita project I showed to Mrs and Mr Kravander they referred to the 800 units."

4TH 100% FRIVOLOUS EXAMPLE:

The entire Cross-Complaint is contradicted by Respondent's sworn testimony showing that the only concern that he had when he breached the agreement in October 1990, was Appellant's expired real estate sales license. This despite the fact that there was no real estate sales activity during the entire 1989 and 1990.

(DEPOSITION, APP.310):

Q: Prior to October 6,90 which is the date you had the conversation with John Golden, did you have any concerns about the activities that John Kravander was engaging in with regard to the property?

LOH: Prior to that I have never even think about that.

Q: That would be the first date that you started to suspect?

LOH: First. The day when John Golden told me. (about the license)"

(5). In his Opening Statement Appellant additionally proved to the judges that Respondent's $175,000 legal extortion and $576,000 Default Judgments are founded on completely frivolous allegations related to 1988 sales activities but capitalizing on the 1991 crash in the real estate market. (Brief,SECTION II)

(6). THE COURT OF APPEAL DENIED APPELLANT AND HIS WIFE OF THEIR CONSTITUTIONAL RIGHT TO ANSWER TO RESPONDENT'S ALLEGATIONS because such an answer would open up the Cross-Complaint and Respondent would have to return the extorted $175,000.

(D). THE COURT OF APPEAL DISMISSED APPELLANT'S COMPLAINT'S FACTUAL AND LEGAL CONTENTIONS AS "INDECIPHERABLE" AND INSTEAD BASED ITS "FACTS AND PROCEDURAL HISTORY" ON RESPONDENT'S CROSS-COMPLAINT'S CONTENTIONS, KNOWING THAT THEY WERE 100% FRIVOLOUS.

(E). THE COURT OF APPEAL COMPLETELY DISMISSED APPELLANT'S REPLY DISCLOSING THAT RESPONDENT'S BRIEF CONTAINED AS MANY AS FORTY FOUR (44) UNTRUE STATEMENTS.

18 USC: 1503 Obstruction of justice
28 USC: 2106 Fraud on Court
18 USC: 371 Conspiracy

(II). THE COURT OF APPEAL'S ROLE IS NOT TO PUNISH THE APPELLANT FOR THE DISCLOSURE OF THE LOWER COURT'S CORRUPTION AMD OBSTRUCTION OF JUSTICE.

THE COURT OF APPEAL'S OWN GROSSLY PREJUDICIAL OR UNSUPPORTED BY THE RECORD STATEMENTS ARE INTENDED TO PREJUDICE THE HIGHER COURT.

(1). GODOY-PEREZ: [Page 10,footnote]

The allegation "*certified to train computer programmers*" is fabricated.

Appellant has never trained any programmers except his own daughter and has never been certified to the alleged capacity.

The two submitted (APP.1472-3) one week courses in two completely different areas, state: "*This is to certify that Jan Kravander has successfully completed the "Data Management Techniques" (or "PRONTO TELECOMMUNICATIONS") PROGRAMMER TRAINING COURSE*". It does not say "Programmer Trainer Course".

(2). GODOY-PEREZ: [Page 10,footnote]

The allegation "*Kravander HACKED HIS WAY into McNamara's private files, obtained access to McNamara's federal income tax returns, and copied them.*" is utterly false. McNamara's tax returns (APP.1435-47) are not any "HACKED" computer outprints. Pages 2-10 are FAXED (see FAX processing data: "03/07/94 19:58 8188887999 LEO F MCNAMARA" in the top portion) copies of tax return forms.

Page 1 is an ORIGINAL SIGNED by McNamara in fading blue ink.

McNmmara's tax returns were included to the two casefile boxes, returned to Appellant, at the April 19,1994 Motion to be Relieved from Record.

It was shortly after the November election that Appellant first discovered these tax-returns and immediately confronted McNamara in his

ordinary workplace in Monterey Park Juvenile Court. McNamara's reaction to the tax returns was "So what"; followed by a threat of imposing a restraining order on Appellant's future visits to his workplace. Because the visit abruptly ended and McNamara didn't ask to have the tax forms returned to him, Appellant decided to submit them as an Exhibit to his December 14,1994 Petition.

The above shows Godoy-Perez's intention to exonerate McNamara's tax-evasion and to discredit Appellant's citizen-duty act of bringing the matter to Department of Justice, by falsely accusing him for a criminal act of computer hacking.

(3). GODOY-PEREZ: [Page 10,footnote]

"The clear and troubling implication is that Kravander, pilfered the document from opposing counsel's courtroom files"

This GROSSLY PREJUDICIAL statement is attacking Appellant for the way he found Respondent's trial message (CORRUPTION), characterizing it as "pilfering". While quoting from the previously dismissed appeal she didn't mention that the Motion she referred to here was held on April 19,1994, ONE MONTH after the trial which ended on March 17,1994. Appellant's and his wife's Depositions were the only trial items abandoned by Respondent's counsel for one month in the courtroom among Appellant's trial related items.

When Appellant found Respondent's trial message in his Deposition, he didn't at first notice that it was not his own Deposition copy. Respondent's trial message with its right margin written in RED pen (APP.1402) was noticeably protruding.

(4). GODOY-PEREZ: [Page 3,line 5]:

"The Lohs' cross-complaint alleged that Kravander said ACI was a charitable Christian organization"

Appellant never said that ACI was a charitable "Christian" organization. This is Respondent's own construed statement in reference to ACI's charitable concept. The ACI charitable concept was born in Summer 1988 after Appellant's involvement with Jeffrey's Foundation for handicapped children in Spring and Summer of 1988, with the purpose of helping Jeffrey Foundation sell their 3743 S.Barrington Av.,Mar Vista compound for free a commission saving worth $20,000.

A letter from Jeffrey Foundation [APP.143] dated June 16,1988 is a reflection of a standing agreement with JDC-owned San Vicente Escrow, to deduct 5% from Appellant's all commission earnings with JDC, for the benefit of Jeffrey's children. The disabled boy Jeffrey was a Jewish boy.

The American Charity concept was a universal charitable idea. The epithet "Christian" is totally irrelevant and prejudicial.

(5). GODOY-PEREZ: [Page 6,line 4]

"While Kravander had acted in pro.per. to the time of trial, he was represented at trial by lawyer John McNamara."

This UNSUPPORTED BY ANY RECORD statement gives a wrong indication about McNamara's "last minute" appearance in the case thus leaving little room for corruption. The fact is that he became Appellant's counsel of record on OCTOBER 7,1992 that is 17 months prior to the March 9,1994 trial.

(6). GODOY-PEREZ: [Page 3,line 2]

"They agreed to the listing and in June 88, Kravander brought them a buyer American Charity,Inc.("ACI") ..."

This UNSUPPORTED BY ANY RECORD statement gives a wrong indication about NO MARKETING between the listing and the ACI buyer. According to "Statement of Facts" presented in Appellant's Brief,page 2, disregarded as "INDECIPHERABLE" (ISSUE V) the "ACI" Escrow was opened on AUGUST 15,1988. The "ACI" buyer-concept was first mentioned on JULY 15,1988, after 27 days of inten-

sive marketing through the MLS weekly publication of the adjacent 10 acre property, and after it was discovered that Respondent's property was landlocked, which he didn't disclose. This made Respondent's property unsellable for $7,500,000, the price he refused to lower.

TR.152,l.6:

Q: *Why did you want to return the listing?*

LOH: *Because in his letter on July 8,88, he say that there are many problems with the property like ZONING have changed form 15 to 40,000 sq.ft per lot plus sewage problems so the price only worth 50% what it was listed for about $3, $4 Million plus he found there are LANDLOCK on the property plus landslide problems."*

(7). GODOY-PEREZ: [Page 11,Lines 16,21]

"Kravander *contends that certain evidence was "surpressed" including ... the contents of Kravander's deposition." "Finally, he has not cited to any portion of the record where his deposition testimony was offered in evidence"*

The referred to portion of Appellant's argument does not say Appellant's deposition", it states "Respondent's deposition" which is a fundamental difference.

[Brief,p.20,l.5]:

"(C). TOTAL SUPPRESSION OF RESPONDENT'S 1992 DEPOSITION containing over 60 direct contradictions to FRAUD allegations contained in Respondent's $5,620,000 Cross-Complaint."

(8). GODOY-PEREZ: [Page 10,l.4]

"During another (side-bar), *Loh's counsel made an offer of proof that Kravander had threatened Loh."*

Godoy-Perez made the above prejudicial and untrue statement after having analyzed the side-bar's content [ISSUE I(A)], quoted in Appellant's Brief (p.15), and showing that Respondent's counsel didn't have any offer of proof except for Loh's hearsay.

(TR.436,1.3,):
MAKIN: Did Mr.Kravander ever threaten you?"
JUDGE: I'll see counsel at the side-bar with the reporter.
JUDGE: What's the offer of proof? Keep your voice down.
MAKIN: That is what WE CONTEND is that he did, he threatened him."

(9). GODOY-PEREZ: throughout the opinion is calling Appellant's counsel "John" McNamara instead of James McNamara. It is not fair to a certain John McNamaras who are advertising with the address and phonenumber, whereas the corrupted lawyer does not appear in any yellow pages and is "hiding" in the 1996 California Lawyers' Directory under "James E.McNamara,Port Hueneme." without address and with NO PHONE NUMBER.

(10). Other statements are not covered here due to space restraints.

(III). THE COURT OF APPEAL MUST NOT DISMISS 100% REVERSIBLE 3/4 OF TRIAL ARGUMENT ONLY BECAUSE THE AMOUNT OF PREJUDICE AND OBSTRUCTION OF JUSTICE WAS SO ENORMOUS THAT IT COULD NOT BE DESCRIBED IN THE BRIEF SHARED BY THREE CASES.

GODOY-PEREZ: [Page 8, Footnote(6)]:
(A). The referred to case No.B085750 consisted of ONLY ONE CASE, the bifurcated Complaint and occupied 49 pages in its accepted form.

(B). On the contrary, the current case No. B101081 consists of THREE CASES, including the previous 49 page long case, all sharing and competing with the same 50 maximum page Brief space.

(C). Appellant's argument for CASE NO.ONE consists of 45 INCIDENTS of Prejudice and Obstruction of Justice related to the 1994 trial of the

Complaint. Only the first TEN INCIDENTS or 23% of the argument could be accommodated in the space assigned to CASE ONE whereas the remaining 35 INCIDENTS or 77% of the argument had to be contained to the Appellant's Appendix pages 1451-1463,Volume VI.

The remaining, DISREGARDED 35 INCIDENTS contain crucial portions of the argument and together give a full picture of the enormous obstruction of justice and prejudice that took place during the 1994 trial of the bifurcated Complaint.

11TH INCIDENT. [App.1451]:

This stricken portion of argument deals with a $163,205 Attorney's Fees Award founded on an Attorney's Fees CLAUSE contained in a 6-27-1988 Listing Agreement to sell property, which expired on 12-20-1988, whereas the trial of the bifurcated Complaint for breach of contract was founded on the 2-22-1989 Agreement to Develop property lacking any Attorney's Fees clause.

12TH, 13TH, 19TH, 20TH, 23RD INCIDENTS. (App.1451-55):

This stricken portion of argument points to the fact that the judge never informed the jury that the case was BIFURCATED. Consequently the jurors were misled by being presented with two separate bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT), instead of only one transaction, that is COMPLAINT, formally adjudicated for trial. QUESTIONS TO JURY were a mix of two separate, bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT).

JURY INSTRUCTIONS were a mix of two separate bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT). JURY INSTRUCTIONS DECEIVED THE JURY into believing that Respondent's Closing Statement was based on evidence, but in fact it mostly contained totally UNSUPPORTED and UNDEFENDED allegations derived from the bifurcated

CROSS-COMPLAINT. JURY INSTRUCTIONS contained matters related to REAL ESTATE SALES ETHICS stemming from the bifurcated Cross-Complaint (TRANSACTION NO.TWO). The fact is that No real estate sales activity whatsoever took place during the 2/22/1988 - 11/2/1989 Agreement to Develop, that the case was adjudicated to be tried based on.

Consequently the jury voted on a case that did not represent the transaction (COMPLAINT) adjudicated for trial.

14TH INCIDENT. (App.1452):

This stricken portion of argument deals with a "$56,000 LOAN" allegation derived from the bifurcated Cross-Complaint (TRANSACTION TWO), prevalent throughout the trial of Complaint (TRANSACTION ONE). The BIFURCATED "$56,000 LOAN" allegation was also a part of QUESTIONS TO JURY despite the fact that there is not a single piece of evidence supporting such a claim and the claimed "LOAN" amount was a total amount of checks issued by Respondent directly in the name of contractors working on his property.

TR.401,L.10:

LOH: "On February 21,1989, he made this verbal request for advanced LOAN from commission. I agreed to him for maybe 10,15 percent out of his commission. Then after that agreement no more discussion. Each time he ask for check, I give him a check. Never ask any questions further."

TR.228,L.10:

Q: "And you gave $57,000 out to somebody without getting it in writing?

LOH: I am the main promise on February 21st. It is my honor so I never asked questions."

TR.246:

LOH: "I promised and I say in my life whatever honor I always whatever promise I always honor."

15TH INCIDENT. (App.1452):

This stricken portion of argument deals with a "FRAUD" allegation stemming from the

bifurcated Cross-Complaint (TRANSACTION TWO), prevalent throughout the trial of Complaint (TRANSACTION ONE).

16TH, 18TH INCIDENTS. (App.1452,53):

This stricken portion of argument deals with a subject of "1988 REAL ESTATE SALES ACTIVITY" and REAL ESTATE EXPERT TESTIMONIES related to REAL ESTATE SALES ETHICS" stemming from the bifurcated Cross-Complaint (TRANSACTION TWO). The fact is that No real estate sales activity whatsoever took place during the 2/22/1988-11/2/1989 Agreement to Develop, that the trial of Complaint was adjudicated for.

17TH INCIDENT. (App.1453):

This stricken portion of argument deals with FALSE REAL ESTATE EXPERT TESTIMONIES related to the bifurcated Cross-Complaint (TRANSACTION NO.TWO), claiming a "decline in property values between 1988 and 1990". Contrary to DataQuick's statistics pointing to a 40% INCREASE during the stated period of time.

21ST, 22ND INCIDENTS. (App.1454):

This stricken portion of argument deals with Plaintiff Counsel's and the judge's CORRABORATIVE role during the REAL ESTATE EXPERT TESTIMONIES related to REAL ESTATE SALES ETHICS" (TRANSACTION TWO), despite knowing that the case was bifurcated and that No real estate sales activity whatsoever took place during the 2/22/1988 - 11/2/1989 Agreement to Develop (TRANSACTION ONE), that the trial of Complaint was adjudicated for.

24TH INCIDENT. (App.1455):

This stricken portion of argument deals with a "PROVE-UP" SCHEME related to a "$56,000 LOAN" allegation derived from the bifurcated Cross-Complaint (TRANSACTION TWO), prevalent throughout the trial of Complaint (TRANSACTION ONE). The BIFURCATED "$56,000 LOAN" allegation was also a part of QUESTIONS TO JURY despite the

fact that there is not a single piece of evidence supporting such a claim and that the claimed "LOAN" amount was actually a combined amount of checks issued by Respondent directly in the name of contractors working on his property.

25TH INCIDENT. (App.1456):

This stricken portion of argument deals with a 25 minute SCHEME consisting of TWO PERJURIOUS STORIES designed to deceive the jury into believing that Respondent's written admission to doing architect plans together with Appellant was merely a personal expression of having (picnic type) "plans for today".

26TH INCIDENT. (App.1457):

This portion of Appellant's argument deals with a discrimination of a subpoenaed witness based on color of skin.

27TH through 45 INCIDENTS. (App.1457-63):

This stricken portion of argument deals with grossly prejudicial statements contained in Respondent's Opening and Closing Statements, mostly containing totally UNSUPPORTED and UNDEFENDED allegations derived from the bifurcated CROSS-COMPLAINT. Consequently the jury was prejudicially influenced to vote on a case that did not represent the transaction (COMPLAINT) adjudicated for trial.

(IV). THE COURT OF APPEAL MUST NOT APPROVE OF BRIEFS AND SWORN DECLARATIONS THAT CONTAIN FALSE STATEMENTS AND TOTALLY IGNORE APPELLANT'S REPLY POINTING THIS OUT.

(A). THE COURT OF APPEAL DISMISSED APPELLANT'S REPLY DISCLOSING THAT BOTH RESPONDENTS' BRIEFS CONTAINED MANY FALSE STATEMENTS.

LOH'S BRIEF CONTAINED AS MANY AS FORTY FOUR (44) UNTRUE STATEMENTS.

(B). THE COURT OF APPEAL AFFIRMED SUMMARY JUDGMENT BASED ON "14 DAY RULE", BUT IGNORED THE FACT THAT THE SUBMITTED SWORN DECLARATIONS WERE SUPPORTED BY 10 FALSE STATEMENTS COMPELLING APPELLANT TO SPEND A WEEK IN RESEARCHING PUBLIC RECORDS.

Appellant's Brief,pages 38-47 discloses the ten false statements contained in Respondent 's sworn DECLARATIONS. Appellant's REPLY,p.26-37 discloses that the same false contentions were brought in to Respondent's Brief.

(V). THE COURT OF APPEAL MUST NOT DEPRIVE A PARTY OF HIS OR HER CONSTITUTIONAL RIGHT TO ANSWER TO ALLEGATIONS. ONLY THE DEFAULT DIVISION SHOULD HANDLE MAILSERVICE.

(A). THE COURT OF APPEAL AFFIRMED $576,000 DEFAULT JUDGMENT BASED ON RESPONDENT'S REPRESENTATION THAT APPELLANT'S ANSWER IS A "RAMBLING DOCUMENT""SERVED LATE" TERMS ARE NOT DEFINED BY CODE OF CIVIL PROC.

Appellant's Second Answer contained a misspelling of the verification date but it was filed and mailserved on OCTOBER 1,1991 that is on the 14TH DAY following the SEPTEMBER 17,1991 "15 days to amend" ruling. As the Answer was mailserved late on the 14TH DAY, it could not technically be delivered to Respondent within 15 days

The "15 DAYS TO AMEND" ruling does not specify that the mailserved Answer be delivered on the 15th day nor does the Rule of Court. The court also never informed Appellant why his Answer was considered a "RAMBLING DOCUMENT".

In order to comply with the 15 day to amend ruling, Appellant used Respondent JDC's approved Answer's legal terminology as a model for his amended answer. The Code of Civil Procedure does not contain the "RAMBLING DOCUMENT" provision or terminology.

Code of Civil Procedure §430.20. Demurrer to answer.

"A verified answer, which in any part contains a distinct denial of a fact materiel to plaintiff's recovery, cannot, no matter how defective it may be, be treated as a nullity, so as to entitle plaintiff to a judgment on the pleading." Ghirardelli v. McDermott, 22 Cal 539.

"Though certain defenses, by way of set-off, are pleaded in the answer in a very informal and inartificial manner, yet if the facts showing that they constitute valid claims against the plaintiff are sufficiently stated, the defense ought not to be struck out." Wallace v. Bear River etc. Mining Co. 18 Cal 461.

"A special demurrer on the ground that an answer is ambiguous, unintelligible or uncertain is insufficient unless the demurrer points out specifically wherein the pleading is ambiguous, uncertain or unintelligible." Coons vs. Thompson, 75 Cal App 2d 687.

Code of Civil Procedure §430.30. Answer to complaint.

(b) The answer to a complaint shall contain:
(1) The general or specific denial of the material allegations of the complaint controverted by the defendant.

(2) A statement of any new matter constituting a defense.

(e) If the defendant has no information or belief upon the subject sufficient to enable him or her to answer an allegation of the complaint he or she may so state in his or her answer and place his or her denial on that ground.

(g) The defenses shall be separately stated, and the several defenses shall refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished.

Appellant tried his best to comply with the above rule of court. If he had failed in doing so he was not aware of it because he wasn't informed as to why his answer was classified as a "rambling document".

Appellant simply had to be placed in Default because the main purpose of Respondent's $5,620,000 Cross-Complaint was to EXTORT money from Appellant's affluent broker who did not know any details of the case, whereas Appellant's Answer disclosed in great detail the frivolous nature of the allegations. If the answer were not surpressed the case would have to go to trial and the jury would have dismissed Respondent's grossly frivolous Cross-Complaint. A few 100% frivolous paragraphs are quoted in ISSUE I(C).

In his Opening Statement Appellant additionally proved to the judges that Respondent's $175,000 legal extortion and both $576,000 Default Judgments were based on 1988 sales activities but founded on such absolutely false ground as capitalizing on a 1991 crash in the real estate market, described in ISSUE I (C).

Court of Appeal believes Respondent's hearsay about the answer being "served late" or lacking verification, etc., despite the "MOUNTAIN OF EVIDENCE" pointing to a massive corruption and obstruction of justice on Respondent's part.

(B). THE COURT OF APPEAL AFFIRMED THE $576,000 DEFAULT JUDGMENT AGAINST APPELLANT'S WIFE, DESPITE THE FACT THAT SHE WAS NEVER SERVED WITH RESPONDENT'S CROSS-COMPLAINT.

GODOY-PEREZ: [Page 5,l.5]; [Page 5,l.19]; [Page 12,l.20]:

(A). Eva K.Kravander was never served with Summons nor Cross-Complaint. Attorney Parsons's signature appears on the alleged SUMMONS, dated FEBRUARY 5-1992. 4 1/2 months later, on JULY 1,1992 at the same location as stated in the alleged SUMMONS, Parsons was conducting Eva K.Kravander's Deposition, but attorney Parsons was not aware that she was a party to the Cross-Complaint.

(E.K.Kravander's Deposition,page 4):
PARSONS: *"Mrs.Kravander, your Deposition has been noticed this morning in connection with the matter of Kravander versus Loh and then the Cross-Complaint filed by the Lohs against Mr.Kravander and Jon Douglas Company. You have personal knowledge of some of the facts underlying that case; Do you?"*.

Eva K.Kravander's never received or signed any SUMMONS despite the fact that the address presented on the alleged SUMMONS is of attorney Parsons' Lawfirm, indicating that it would have been natural for Parsons to ask her to sign while she allegedly was on the premises of the Lawfirm. The SUMMONS presented in Respondent's Appendix, p.110, also contains a fraudulent, partially handwritten court stamp.

Respondent has been notorious also for petty frauds throughout the case.

(B). The Court Record and Respondent's Appendix, pages 115,116 show that Eva K.Kravander's name is not mentioned at all on the ATTACHED MAILING LIST of Request for Entry of Default, filed on March 13,1992.

The court stamps indicate that the Default Section requested that Respondent file additional Proof of Service containing the name Eva K. Kravander. It was filed on March 17,1992, and attached to the March 13,1992 Court Record.

In spite of this additional Proof of Service Eva K.Kravander never received any Request for Entry of Default.

The above indicates that Respondent did not intend to include her name on the mailing list and never mailed the Request for Entry of Default to her.

We know for fact that Respondent previously placed Appellant's Answer in a Default because it would disclose the frivolous nature of his $5,620 000, Cross-Complaint targeting Appellant's broker JDC.

If Appellant's wife were served with ROE Amendment, Summons or Request for Entry of Default, she would have contacted an attorney or a legal clinic and be advised to at least file a general denial. This would open up the Cross-Complaint for trial where she would easily have defended the frivolous allegations.

On AUGUST 4,1992, Appellant filed a Motion to Set aside his 8 months old Default. No such Motion was filed with respect to his wife's default in spite of the fact that her default was only 4 1/2 months old and qualified for such a filing. The above clearly indicates that as of August 4,1992 neither Appellant nor his wife knew that a Default was entered against her on March 17,1992.

E.K.Kravander was not allowed to say a word to her defense during the so called Default Prove-ups, nor at the January 7,1997 appellate hearing.

The Court of Appeal believes Respondent's hearsay contention about his alleged Service of the Default pleadings despite the "MOUNTAIN OF EVIDENCE" pointing to a massive corruption and obstruction of justice on Respondent's part.

(VI). THE COURT OF APPEAL MUST NOT DISCRIMINATE A PARTY IN PRO PER BY DISMISSING HIS FACTUAL AND LEGAL CONTENTIONS ON THE GROUNDS THAT THEY ARE "INDECIPHERABLE".

GODOY-PEREZ: [Page 2,footnote(1)]:
(A). In response to "*indecipherable legal contentions*": In order to prepare legal argument Appellant completed a 1 year paralegal school (97% passing grade), with special emphasis on advanced research methods such as Shepardizing, plus training with Westlaw's computerized legal research systems, applying Descriptive Words (WIN Natural Language) and Terms and Connectors techniques. Appellant's rejected legal argument reflects 1 year of legal research.

(B). In response to "*indecipherable factual contentions*":
(1). In order to accommodate three (3) cases within 50 page limit, the linguistic quality had to be compromised to a certain extent.

Both Appellant and Respondent are naturalized U.S.citizens. Appellant's language is not perfect, thou not so bad to be disqualified as indecipherable. During the past 30 years, Appellant has put a great effort into improving his English, by studying (from A to Z) dictionaries (9 or 10) and grammar books on a daily basis. Most recent: "The (75,000 words) Oxford Dictionary". In spite of a quite substantial vocabulary (including correct spelling), he puts emphasis on simplicity of language.

Godoy-Perez who seems to take pride in her East L.A. upbringing ("Judicial Profile") should not be estranged in showing tolerance to people with linguistic imperfections/limitations.

(2). Appellant's Statement of Fact is a 10 page long chronological statement of all pertinent facts of the case from May 1988 to December

1988 ("REAL ESTATE SALES ACTIVITIES ON RESPONDENT'S PROPERTY") and from February 1989 to November 1990 ("AGREEMENT TO DEVELOP PROPERTY"). If Appellant's Statement of Fact is indecipherable, it is mostly due to the Opening Brief's tremendous space restraint.

(VII). THE COURT OF APPEAL MUST NOT IGNORE OR APPROVE OF DISCRIMINATION OF A WITTNESS BASED ON COLOR OF SKIN.

26TH INCIDENT. (App.1457):

This portion of Appellant's dismissed argument deals with a discrimination of a subpoenaed Afro-American witness in a context of jury composition where the majority of jurors were of the same ethnic origin.

42 USC: 1985 Conspiracy (Civil rights)

DISCUSSION.

(I). The role and duty of the appellate court is to correct error and injustice committed by the lower court. When the appellate court knowingly reaffirms error and injustice perpetrated by the lower court it loses its impartiality status and becomes a mere instrument and partner of the lower court.

(II). The appellate court as an independent and impartial judicial body should not punish the Appellant for disclosure of the lower court's corruption and other acts of law breaking.

(III). The amount of prejudice and obstruction of justice related to the trial of Complaint was so

enormous that it first took 58 pages (B085750) to describe and has now been compromised down to 35 pages.

The purpose of an appellate review is asserting justice based on truth. When the appellate court knowingly rejects 3/4 of the truth it bases its opinion on a mere 1/4 of the truth.

(IV). Truthfulness of Briefs and sworn declarations is a must in the judicial process of administering justice. When sworn statements don't reflect truth anymore the courts cease their role as a finder of truth an administer of justice.

(V). It is a travesty of justice to deny the accused of his or her constitutional right to answer to allegations, when such an answer would have prevented a legal extortion targeting a third party.

When the accused is prohibited from answering to accusations and gets punished as a result thereof, then there is no justice.

(VI). Appellant should not be discriminated for expressing his case in Pro Per. When a party in Pro Per is denied his or her voice to be heard in the judicial process then the process becomes a mere instrument for those who can afford it, and not as it is intended to by the constitution, to serve the people as a whole.

(VII). It is a travesty of justice to discriminate a witness based on color of skin. It should not be practiced by any court in any state.

CONCLUSION.

Petitioners respectfully request this Honorable Court of Justice to grant review so that the California courts, attorneys, and the people of the state of California, can be secure in relying upon California statutes and California Constitution in interpreting their rights to participate in a fair judicial process.

An appellate review that lacks any objectivity and is grossly prejudicial must be reversed.

The mailservice of Request for Entry of Default should not be handled by the Petitioner. It must be handled by the Default Division. This "loophole" must be closed for the benefit of the defendant.

Respectfully,

John Richard Arius aka
Jan Richard Kravander

Kristina Eva Arius aka
Eva Kristina Kravander

Dated: March 7,1997

APPENDIX B

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF

CALIFORNIA SECOND APPEAL DISTRICT

DIVISION FIVE

JAN RICHARD KRAVANDER

Plaintiff,Cross-Defendant and Appellant,

v.

WELLINGTON LOH,et al.,

Defendants,Cross-Complainants and Respondents.

B101081
(Super.Ct.No. BC025183)

FILED
Jan.27,1997

APPEAL from judgments of the Los Angeles Superior Court. Harvey A.Schneider and Arnold H.Gold,Judges. Affirmed.

Jan Richard Kravander, in pro. per., for Plaintiff, Cross-Defendant, and Appellant.

Makin & Masoner, and Cynthia Makin, for Defendants, Cross-Complainants, and Respondents Wellington and Irene Loh.

Sherwood and Hardgrove, Kenneth M. Hardgrove and Timothy S. Plum, for Defendant and Respondent Jon Douglas Company.

Jan Richard Kravander appeals from the adverse judgments entered on his complaint against Wellington Loh, on Loh's cross-complaint against Kravander, and on Kravander's cross-complaint against the Jon Douglas Company

For the reasons set forth below, we affirm each judgment.

FACTS AND PROCEDURAL HISTORY (1)

On April 4, 1991, appellant Jan Richard Kravander ("Kravander") sued Welligton Loh ("Loh") for breach of contract, contending that Loh had hired him to develop and sell certain undeveloped real property near Mulholland Drive in Los Angeles. The land was to be sold for $7.5 million, reaping Kravander a six percent commission of $450,000. After Kravander spent several hundred thousand dollars on plans, tests and other work, Loh allegedly stopped the project and refused to pay Kravander back.

Loh and his wife Irene Loh filed a verified cross-complaint against Kravander, the Jon Douglas Company ("JDC") and Randy Forbes, a JDC supervisor, for fraud, breach of contract and infliction of emotional distress (2). The

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(1) We preface our recitation of the facts by noting that appellant's opening brief was virtually indecipherable while his appendix of the record was woefully deficient, omitting numerous necessary documents while including many others which were irrelevant or improper. To the extent we have been able to discern his arguments and assemble the relevant facts, it has been due to the efforts of the various respondents, who have done the best to untangle the thicket and supply the necessary documents. Even so, the procedural and factual background of this action is convoluted and we will set forth only the essential facts. Much of Kravander's brief is devoted to rearguing the facts decided against him below. To the extent his many factual and legal contentions remain undeciphered or are unsupported by argument, we

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Lohs alleged that Kravander was a real estate agent with JDC who approached them in May 1988 seeking to list for sale the Loh's land near Mulholland Drive ("the property"). They agreed to the listing and in June 1988 Kravander brought them a buyer—American Charity,Inc. ("ACI")—which opened escrow after agreeing to pay $7.5 million for the property. The Lohs's cross-complaint alleged that Kravander said ACI was a charitable organization and that he (Kravander) would contribute $100,000 of his commission to ACI. Escrow opened in August 1988.

The Lohs's cross-complaint alleged that they confronted Kravander in February 1989 with the fact that they could not find ACI either in the phone book or at its supposed address. Kravander admitted the organization was phony but persuaded the Lohs to continue with the sale because the loan was in place, a $1 million down payment would be made, and escrow would close within a few months.

The Lohs alleged they later loaned Kravander $60,000 to draw up plans and perform soil tests as part of their application for building permits. Kravander began those tests. In June 1990, however, the City of Los Angeles issued an order to comply against the Lohs because Kravander had begun grading and drilling without first getting city approval. Over the next few months, the Lohs received several letters regarding damage caused by Kravander, The Lohs learned in September 1990 that Kravander no longer worked for JDC. They also later learned that Kravander had lost his

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deem them waived. (*Unilogic,Inc. v. Burroughs Corp.* (1992) 10 Cal.App.4th 612, 624; *Berger v. Godden* (1985) 163 Cal.App.3d 1113, 1119-1120.)

(2) Loh and Irene Loh will sometimes be referred tocollectively as "the Lohs."

real estate agent's license in May 1990. As a result of Kravander's conduct, the Lohs claimed they would have to spend money to make the property comply with the city's notices and also lost approximately $56,000 which they loaned to Kravander.

The Lohs's cross-complaint further alleged that Kravander filed a mechanic's lien against the property in January 1991 in an attempt to obtain payment for his services. That lien expired in April 1991, shortly after Kravander filed his breach of contract action. The Lohs's cross-complaint also included a cause of action against Kravander for abuse of process based on the filling of that mechanic's lien and the breach of contract action. Kravander's wife Eva Kravander, aka Kristina Kravander, Kristina Bulow and Eva Bulow, was added to the cross-complaint in place of a fictitiously named Roe defendant on February 4,1992. The Lohs's cross-complaint had already alleged that Eva Kravander signed various documents as an officer of ACI.

JDC and Forbes cross-complained against Kravander on August 8, 1991, seeking declaratory relief, indemnification and contribution based on allegations that Kravander was primarily and actively responsible for the Lohs's damages while they were merely passively and indirectly so. Kravander responded with a cross-complaint of his own against JDC for "abuse," negligent misrepresentation and breach of fiduciary duty, contending in essence that JDC wrongfully hindered Kravander's ability to develop the property for Loh. After a demurrer by JDC, Kravander's cause of action for breach of fiduciary duty was stricken from the cross complaint.

In response to the Lohs's cross-complaint, on August 6, 1991, Kravander filed a pleading styled as his "AFFIRMATIVE

DEFENSES TO LOHS'S FIRST AMENDED CROEE-COMPLAINT."-JDC and Forbes moved to strike the pleading on the ground that it suffered from numerous deficiencies, among them that it was unintelligible and unverified. The trial court granted that motion on September 17, 1991, and gave Kravander 15 days to answer. If not, his default would be entered.

Kravander filed an amended answer on October 1,1991. JDC and Forbes moved to strike this answer as well on the grounds that it was nearly as ambiguous and unintelligible as Kravander's first responsive pleading and that the verification was not in the proper form. The court granted that motion on November 14,1991, and ordered Kravander's default be entered. Kravander did not appear at that hearing. The order stated that Kravander "has continued to disregard court procedure. He was warned before to timely file and serve an Amended Answer in the proper form. His Amended Answer was served late and no proof of service was attached of filed. A copy of the Amended Answer which was served on the Moving Parties herein did not contain Exhibits [referred to in the pleading]. The Amended Answer is a rambling document which is not in the proper form." His default was entered on December 2,1991.

On February 7,1992, the Lohs filed a proof of service showing that Eva Kravander was personally served with the Lohs's cross-complaint on February 5,1992. The record does not show that she ever answered that cross-complaint and her default was entered on March 17, 1992.

Kravander filed a motion to vacate his default on August 4,1992, under Code of Civil Procedure section 473, contending that since he was representing himself in the action, he did not understand the consequences of a default and was not familiar with the substantive and procedural aspects of pleadings (3). As a result, he argued, his default was entered due

to mistake, inadvertence and neglect, calling for the court to exercise its equitable powers, vacate the default and permit him to answer the Lohs's cross-complaint. The Lohs opposed the motion on the grounds that it was brought beyond the six-month time limit imposed on such motions by section 473 and that Kravander's new proposed answer contained most of the same flaws as did his two previous defective answers. the court denied Kravander's motion on September 8,1992. Nowhere in the record does it appear that Eva Kravander filed any motion seeking to vacate the default entered as to her.

On July 15,1993, the court ordered the trial of Kravander's complaint against Loh bifurcated from the trial of the cross-complaints. Kravander's action was tried to a jury in March 1994. The jury was given a special verdict form which set forth a brief summary of each party's version of events and which asked the jury "to decide...which party's version of the case is true." On March 22,1994, the jury answered that question by finding Loh's version of events true and judgment for Loh was entered. While Kravander had acted in pro. per. up to the time of the trial, he was represented at trial by lawyer John McNamara. McNamara asked to be relieved as counsel shortly after the jury verdict when a dispute arose between him and Kravander and Kravander has been in pro. per. ever since.

On August 23,1994, the court ordered the

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(3) All further statutory references are to the Code of Civil Procedure.

Section 473 provides, in relevant part, that a party may be relieved from a proceeding taken against him due to his mistake, inadvertence, surprise, or excusable neglect, in no case later than six months after the proceeding took place.

trial of the Lohs's cross-complaint against JDC and Forbes bifurcated from the other cross-complaints and set a trial date of January 9,1995 for the Lohs's cross-complaint (4). The Lohs dismissed their cross-complaint with prejudice, but only as to JDC and Forbes, on August 10, 1995. JDC and Forbes dismissed their cross-complaint against Kravander on August 11,1995.

JDC brought a summary judgment motion on July 14,1995, as to Kravander's cross-complaint against it for "abuse" and negligent misrepresentation. The motion was set to be heard on August 11,1995, requiring Kravander to file and serve his written opposition and response to JDC's statement of undisputed facts no later than July 28,1995. (§ 437c, subd.(b).) Instead, Kravander filed his written opposition, minus any response to JDC's separate statement, on August 4,1995. Kravander's opposition also failed to include any declarations affidavits or other admissible evidence.

At the August 11,1995, hearing, the court refused to hear oral argument. It granted JDC's motion for summary judgment because Kravander failed to file a separate statement, filed his opposition several days late, and did not provide any authenticated evidence in opposition to the motion. On November 13,1995, Kravander filed a motion under section 473 to set aside the summary judgment, contending that all previous motions required written opposition seven days before the hearing, that he was unfamiliar with the 14 day requirement of section 437c, that JDC had previously sought and obtained permission to file a written opposition four days before a previous hearing, and that the latter "deviation" was intended to

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(4) JDC and Forbes were the sole remaining parties to the Loh's cross-complaint after entry of default against Kravander and Eva Kravander.

"lullaby him as to the 14 day rule with regards[*sic*] to the following [summary judgment] Motion." When combined, these circumstances amounted to excusable neglect which permitted the summary judgment to be set aside under section 473, Kravander contended. His motion made no reference to his failures to file a response to JDC's separate statement of facts or to introduce any affidavits, declarations or other authenticated evidence. It did make reference to certain newly discovered evidence which Kravander claimed showed that summary judgment was not warranted.

The court denied Kravander's set-aside motion on December 26,1995,because he failed to provide in his moving papers sufficient justification for his failure to timely file a response to JDC's separate statement of undisputed facts and for his failure to justify his unreasonable delay in bringing the motion to set aside the summary judgment. Kravander did not appear at the hearing.

On May 19,1994, Kravander appealed from the judgment on special verdict of March 22,1994, in his action against Loh(No.B085750). By order dated January 30,1996, this court dismissed Kravander's appeal under the one-final judgment rule since no judgment had yet been received had yet been entered on the Lohs's cross-complaint against Kravander and Eva Kravander. Following a prove-up hearing on the defaults obtained against both Kravanders, the court entered a default judgment on January 31, 1996, for the Lohs against both Kravander and his wife in the amount of $576,500. Kravander filed a new notice of appeal on March 28,1996 "from Court Verdicts entered on March 22,1994 and January 31,1996. (all the cases)." corruption and fraud due to a conspiracy between Loh, the court, and Kravander's trial counsel; [2] the defaults taken against Kravander and his wife Eva were wrongly entered

requiring reversal of the concomitant default judgments; and [3] the court improperly awarded JDC summary judgment on Kravander's cross-complaint against it.

Kravander appears to make the following contentions on appeal (5): [1] the judgment for Loh following the jury trial of Kravander's breach of contract action was the result of

DISCUSSION

1. Allegations Of Corruption In Kravander's Breach Of Contract Action Against Loh

Kravander's appellate brief lists ten incidents which he contends shows a conspiracy between Loh, the court and Kravander's own trial counsel in order to rig the outcome against him (6). He first contends that Loh "corrupted/ bought" Kravander's trial lawyer, John McNamara, and accuses McNamara of "[s]witching sides," leaking information to Loh, taking a bribe, and other such sundry acts of misconduct.

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(5) See footnote 1, *ante*.

(6) Thirty-four other purported incidents are detailed in thirteen pages of volume six of Kravander's appendix, presumably because his appellate brief consumed the maximum 50 pages. (Cal. Rules of Court, rule 15(e).) Kravander had his first appellant's brief stricken in case No. B085750 in part for violating that rule and we disregard the other incidents set forth in his current appendix as an attempt to do so again. Unless otherwise indicated, all further rule references are to the California Rules of Court.

These allegations are supported by little more than Kravander's dissatisfaction with certain aspects of McNamara's performance and the following: [1] a handwritten note by Loh on top of a trial exhibit which read "Not show check to jury first. Then McMera quickly slip through this check with out being noticed"; and [2] two letters written by Irene Loh which were addressed to the court, the jurors and the lawyers, dated while the jury was deliberating, extolling her husband's good character. The Lohs often referred to McNamara as "McMera" and Kravander contends the note was proof of their instructions to slip something by the jury. The two letters to the jury were never disclosed to Kravander by McNamara , offering further proof of the alleged conspiracy, according to Kravander.

Finally, Kravander appears to argue that McNamara committed federal income tax fraud in connection with his 1993 tax returns, thus establishing his propensity to commit criminal or fraudulent acts.

We believe it is impossible to even draw an inference of corruption from these events. As the Lohs point out in their brief, the note about "McMera" slipping the check through was most likely written by them to their own lawyer during the trial. To construe that note as secret instructions from the Lohs to McNamara which were conveyed right in the middle of trial is speculative. Assuming for discussion's sake alone that McNamara did not disclose the existence of Irene Loh's letters to Kravander, his omission might be viewed as indicative of either an oversight or of poor client communication skills, but not as proof of corruption.

Irene Loh's purported transmission of those two letters form the basis of Kravander's fourth and fifth instances of trial misconduct. There is no proof that those letters were received by the court or the jury and we

therefore disregard that portion of Kravander's argument (7).

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(7) Before passing on to Kravander's remaining claims of corruption, we must express grave concern over Kravander's methods for obtaining some of his documentary evidence. Loh's handwritten note about "McMera" on the trial exhibit was apparently obtained by Kravander under questionable circumstances. In Kravander's said that, after the hearing on McNamara's motion to be received as counsel, Kravander "collected the display exhibits left after the trial. LOH'S 'MESSAGE' was found among [Loh's lawyer's] volumes of plaintiff's deposition, left by [the lawyer], lying together with the exhibits, under the presentation board." The clear and troubling implication of this statement is that Kravander pilfered the document from opposing counsel's courtroom files.

Even more disturbing is Kravander's reliance on McNamara's 1993 federal income tax return to support his assertion that McNamara committed tax fraud. As part of this allegation, Kravander has appended to numerous court documents a copy of McNamara's 1993 return, along with a cover letter from McNamara to an entity Known as TOMCO in which McNamara refers to problems suffered by his mother-in-law. In addition to making these personal and private documents part of the appellate record and his appellate argument, Kravander attached them to a December 1994 document captioned "PETITION / JUDICIAL COMPLAINT" which he filed with this court and purports to have with both the governor and the state attorney general.

In that petition, Kravander raised most of the same arguments he does here, including

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Kravander's second and third examples of the purported conspiracy center around side-bar conferences during the direct examination of Loh. During one sidebar, Loh's lawyer explained that she was trying to elicit testimony to establish Loh's credibility and explain why he trusted Kravander. During another, Loh's counsel made an offer of proof that Kravander had threatened Loh. Just before that sidebar, Loh answered a question concerning the transaction and gave an answer which exceeded the scope of the question. The nonresponsive portion was stricken following an objection by Kravander's lawyer. Kravander contends these

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McNamara's alleged tax fraud. After discussing those allegations and making reference to the contents of McNamara's tax returns, Kravander states:" During 1993,I worked on the above case using McNamara's computer on a weekly basis, therefor I know the above facts." Kravander is a computer programmer and is certified to train computer programmers. When combined with Kravander's computer skills, the clear implication of this statement is that Kravander, while using McNamara's computer to work on his own case, hacked his way into McNamara's private files, obtained access to McNamara's federal income tax returns, and copied them.

Kravander is obviously aware that McNamara's tax returns were confidential—he stated as much in his reply brief in case No. B085750, when he explained his failure to include copies of those returns with the Loh's copy of his appellant's brief, stating that he omitted them "because of confidentiality reasons, in respect to McNamara's income tax returns." if our interpretation of Kravander's statement is correct, we doubt McNamara consented to such an invasion. We do not know whether McNamara is even aware it occurred.

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incidents somehow established a courtroom conspiracy to falsely enhance Loh's reputation while demeaning his own. They do not.

Kravander contends the Loh's engaged in obstruction of justice by tampering with one of Kravander's witnesses, a David Garrett, by talking to him in the hallway before Garret took the stand. When questioned about this incident by Kravander's lawyer, Garrett testified that he spoke to Loh about being hungry, that Loh wanted to show him some papers but Garrett told him to put them away, and denied that they spoke about the case at all. Even were it somehow possible to construe this incident as an attempt at witness tampering, the undisputed evidence shows it was an unsuccessful attempt which caused Kravander no prejudice.

Kravander contends that certain evidence was "suppressed", including escrow documents which had been subpoenaed, proof of Kravander's work on developing the property, and the contents of Kravander's deposition. Kravander has not offered any proof and has not cited to any portions of the record which show who subpoenaed the escrow documents or whether objection was made to their absence. His record citation to the reporter's transcript concerning proof of his work on the project does not reflect that he was ever precluded from offering such testimony. Finally, he has not cited to any portion of the record where his deposition testimony was offered in evidence and rejected by the court. Nor has he explained how the absence of that testimony could prejudice him at all since he was present at trial and testified.

The eighth alleged incident cited by Kravander occurred after the trial, during the hearing on McNamara's motion to be relieved as trial counsel, when there was discussion concerning whether Kravander had been notified by McNamara of his right to appeal and the

deadline for doing so. During that discussion, the court told Kravander he would be wasting money on an appeal because factual issues were resolved against him by the jury and because the court did not believe any errors occurred at trial. Kravander contends this was prejudicial and an obstruction of justice. He is incorrect.

Kravander's ninth incident concerns the accuracy of the special verdict form, which he contends incorrectly stated his case. He does not explain in what way it was incorrect, does not contend that it caused him any prejudice, and does not contend or point to any portion of the record which shows that a timely objection was made to the verdict form. This contention is also rejected.

His final contention of prejudice and obstruction of justice concerns his allegation that his wife's handwriting was forged on certain documents, combined with his complaint that while Loh subpoenaed her as a witness at trial, she was never called to testify. Assuming for discussion's sake alone that the documents were forged, that fact was clearly known to Kravander at trial and he was free to call his wife as a witness to testify about it. His failure to do so is a waiver of this contention.

Having rejected each of Kravander's contentions of prejudice and corruption in regard to the judgment for Loh on Kravander's breach of contract action, we affirm that judgment.

2. The Default Judgments On The Loh's Cross-Complaint

We first dispose of Kravander's contention that his wife's default was improperly obtained because she was never served with that pleading. Even though Eva

Kravander has submitted a declaration denying she was served, the record contains a proof of service. She never sought to vacate the default, and thus would only be free to contest on appeal the issues of jurisdiction and sufficiency of the pleadings. (*Corona v. Lundigan* (1984) 158 Cal. App.3d 764, 766-767.) She has not. Most important of all, however is her failure to appeal. The notices of appeal in case No. B085750 and in this case were prepared only on behalf of Kravander, not his wife. Absent a timely notice of appeal, we have no juris- diction in this matter as to Eva Kravander and her default judgment on the Loh's cross- complaint is thus not before us.

Kravander's brief confines its argument to section 473 and the court's denial of his motion to vacate the default. Kravander's motion to vacate was filed August 4,1992, well more than six months after entry of default on November 14,1991. The court's ruling is reviewed under the abuse of discretion standard and discretion is abused in granting relief if the moving party's supporting declaration fails to set forth sufficient facts to show excusable surprise or neglect. (*Aheroni v. Maxwell* (1988) 205 Cal.App.3d 284, 291.) Since the motion was brought so late it could only be entertained under the court's inherent equitable powers. After the statutory six month period elapses, there is a strong public policy in favor of finality of judgments and relief from default will only be granted in exceptional circumstances, thus requiring a far stronger showing of the moving party. (*Ibid.*)

Kravander appears to argue that relief was warranted because the court did not explain to him how to correct his answer. He is incorrect. A party appearing in pro. per. is not entitled to exceptionally lenient treatment and, except when a particular rule provides otherwise, the rules of civil procedure apply equally to parties represented by lawyers and

parties who represent themselves. The rule of *Pete v. Henderson* (1954) 124 Cal.App.2d 487,491, that courts should treat parties in pro. per. with lenience and offer guidance when needed is to be very rarely, if ever followed. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985.) Kravander also complains that he was not present when default was entered. The default was entered following the hearing on the Loh's properly noticed motion to strike and enter default. Kravander's absence was his own choice and we do not see how his presence would have altered the outcome in any event. The default judgment as to Kravander is also affirmed.

3. Summary Judgment For JDC On Kravander's Cross-Complaint

Kravander spends considerable time in an attempt to attack the merits of JDC's summary judgment motion on his cross-complaint, an argument which overlooks that summary judgment was granted because his opposition was late, omitted a response to JDC's separate statement of undisputed facts and did not include any authenticated evidence. These matters were mere technicalities, he contends, and did not justify the court's order. Unfortunately for Kravander, there is ample authority—both statutory and decisional—for granting summary judgment on those grounds.

Rule 317(a) provides that except as otherwise authorized by law, all law and motion opposition papers must be filed at least five court days before the hearing. Code of Civil Procedure section 437c, subdivision (b) states that any opposition to a summary judgment motion "shall be served and filed not less than 14 days preceding the notice or continued date of hearing, unless the court for good cause orders otherwise." That same section grants the

trial court discretion to grant summary judgment when the party opposing the motion fails to file a responsive separate statement of facts. While an opposition may not be rejected for filing because it is late, the court has discretion to refuse to consider those papers and must say so in its minuet order. (Rule 317(c).) Under rule 9.15 of Los Angeles Superior Court Local Rules ("the local rules"), this created an inference that the motion was meritorious, required Kravander to state in detail the reasons for his failure to timely file any opposition, and permitted the court to bar him from making oral argument. (Local rule 9.15.)

The court in *Security Pacific Nat. Bank v. Bradley* (1992) 4 Cal.App.4th 89 (hereafter "*Bradley*") considered and reversed a summary judgment which was ordered when the defendant failed to file a responsive separate statement of facts. However, the defendant in *Bradley* had filed that statement in opposition to plaintiff's earlier summary judgment motion, a motion which was not heard because the plaintiff's moving papers were defective. Even though section 437c, subdivision (b) permits the court to grant the motion in the absence of an opposition separate statement, the appellate court held that discretion was abused because the circumstances leading to the defendant's failure to file a separate statement were caused by the plaintiff's own defalcations, a trial date was not close at hand, there was no prejudice to the plaintiff and there was no showing of previous dilatory conduct or abuse of court procedures by the defendant. (*Id.* at pp. 95-96.) On those facts, granting the motion on a purely procedural ground without having considered the merits at all was an abuse of discretion. (*Id.* at p. 97.)

Here, there was no corresponding fault by JDC and Kravander did more than just fail to file a separate statement. Instead, Kravander

filed an untimely opposition which omitted the separate statement. As stated earlier, parties appearing in pro. per. are expected to know and abide by the same procedural rules as the lawyers. The deadline for filing opposition to summary judgment in neither obscure nor hidden—it is plainly set forth in the Code of Civil Procedure and Kravander should have known that. He also offers no explanation for his failure to timely file a responsive separate statement.

Further, as the record makes clear, Kravander had a history of violating procedural rules. Accordingly, we hold that the trial court did not abuse its discretion in granting summary judgment for JDC on Kravander's cross-complaint. Finally, Kravander's procedural defalcations do not amount to excusable neglect and the trial court properly denied his motion to set aside the summary judgment.

DISPOSITON

For the reasons set forth above, the judgment for Loh on Kravander's complaint, the default judgment against Kravander on the Loh's cross-complaint, and ~~the~~ summary judgment for JDC on Kravander's cross-complaint, are affirmed. Eva Kravander's default judgment is not properly before us since she did not appeal. The Loh's request for sanctions on appeal is denied. Respondents to recover their costs on appeal.

NOT TO BE PUBLISHED.

GODOY PEREZ, J.

We concur:

TURNER, P.J.
ARMSTRONG, J.

APPENDIX C

Thank you for allowing me time.
Good Afternoon, my name is John Arius and I'm also known as Jan Richard Kravander.
I'm the appellant.

In reference to **SECTION TWO**.
Cross-Complaint Prove-Up.

(A). LOH's $175,000 Settlement with my broker was a Sham. I briefed the new judge about that Loh's Cross-Complaint was completely frivolous and that Loh prevailed in the trial of Complaint by massive Obstruction of Justice.

2 days after the above briefing and 4 days prior to the scheduled Trial-Settlement, Loh RUSHED TO SETTLE with JDC, using another judge (SEC.II,p.28).

(B). LOH was GRANTED $576,000 IN A DEFAULT JUDGMENT BASED ON 3 COMPLETELY FALSE and FRAUDULANT GROUNDS.

1ST COMPLETELY FALSE GROUND.

Loh's 2/10, 4/17, 4/24, 7/6, 8/3/95 and 1/22/96 **pleadings in support of the Default Judgment** (Brief,p.29-33) were **founded on a false assumption** that the 6/18/1988 Listing and 8/15/1988 Escrow Agreements were both **expired 3 years later** in order for Loh to **capitalize on** the **1991 crash in the real estate market**.

(**2/95** Statement of Case (Appendix 994)):

*"Despite having the **listing for almost 3 years**, Mr.Kravander failed to find a legitimate buyer."*

(**4/95** Summary of Case (Appendix 1020)):

"***Respondents' damages*** *in this matter* ***primarily stem from the FACT*** *that ... the property was unnecessarily* ***tied up*** *and rendered unmarketable* ***for approximately 3 years*** *During that time period,* ***due to the downturn*** *in the real estate market, the value of the property dropped* ***from $2,400,000 to $1,880,000 a decrease of $520.000***."

and **4/95** Declaration of Respondent:

"*As a result of the conduct alleged in the Cross-Comlaint* ***we sustained actual damages in the sum of $576,000. I declare under the penalty of perjury, under the laws of the State of California, that the foregoing is true and correct***.

Wellington Loh."

(FACT-NO.1):

6/18/88 Listing Agreement was valid for **180 days**. **It EXPIRED on 12/18/88** and was never extended, this fact is verified by JDC Executive Vice President and Loh's own sworn testimony. TR.432;20:

QUOTE:"*Jon Douglas later made it clear so far as Jon Douglas is concerned. It is terminated on December 20,1988.*"

8/15/88 Purchase Agreement was valid for a period of **90 plus 30 days**. It **EXPIRED on 12/15/88, and was never extended nor amended**.

TR.185:1:

Q: "Dr.Loh, according to that paragraph, Escrow should have either close or been ***canceled by December 15th,1988****, correct?*

LOH: ***This is correct.***"

TR.227:24:

Q: "Did you ever sign any escrow instructions ***after February 22nd,1989*** (Agreement to Develop)?
LOH: ***Absolutely no.***"

TR.497:4:

Q: "Was it your understanding that if the Escrow agreements were ***to be revised you would have to sign them****?*
LOH: Yes.
Q: Did you ***ever sign*** *any escrow instructions?*
LOH: No. I did not.
Q: Did you ***ever ask*** *Jan Kravander?*
LOH: ***I never did.***"

(FACT-NO.2):

On **February 22,89** (**2 months after** both the sales agreements ended), the parties entered **Agreement to Develop** (**NOT SELL**) Loh's property. (Brief,p.3-10) which Agreement Loh 21 months later breched:

Absent any sales agreements after December 20,88, Loh's claim that I "**tied up** his **property through the 1991 recession**" is absolutely frivolous.

(FACT-NO.3):

When I on **November 2,90** stopped working for Loh after his Breach of Agreement, the property values were an all time high. According to DataQuick's statistics, including all sold properties in Loh's area, the **PEAK was reached, in December of 1990, one month after I was fired by Loh.**

(FACT-NO.4):

$576,000 Default Judgment is founded on Blaze McDade's **1993 Appraisal**, the very same real estate "EXPERT" who 5 months later **lied under oath in court** about "DECLINED" property values in Beverly Hills area between 1988 and 1990, **contrary to statistics** showing a **30-40% UNPRECEDENTED INCREASE** during the stated period of time.

TR.689:

Q: Between 1988 and 1990, did the prices in real estate generally go up?
McDade: ***No.***
Q: They fell?
McDade: ***They fell.***"

2ND COMPLETELY FALSE GROUND.

Loh was granted $576,000 in Default Judgment based on an alleged "**lack of MY and my wife's Answer**" to Cross-Complaint.

4/17/95 Proposed Judgment (Appendix 1018)): "*It appearing that Cross-Defendants JRK and KK having* ***been regularly served, having failed to appear to answer*** *the C-C filed on MAY 18,1991. It is* ***therefore*** *ordered adjudged and decreed that Cross-Complainants receive from Cross-Ds the principal sum of $576,000.*

(**4/17/95** Summary of Case (Appendix 1020)): "*Kravander and KK* ***were served*** *with the Respondents' Cross- Complaint about MAY 28,1991 and* ***February 5,1992****, thereafter K. defaulted on 12/2/1991 and KK defaulted on 3/17/1992*"

(A). I spent 2 months trying my best to answer to the 113 paragraphs of alle-

gations. Both my detailed answers were rejected.

Loh denied me my right to answer to his Cross-Complaint simply because its main purpose was **to extort money from my affluent broker**, who didn't know all the details of the case, whereas **myself who knew all the details was not allowed to answer** to the allegations.

Judge Schneider granted Entry of Default based on such grossly unjustifiable grounds as:

(A). **QUOTE** "*His Amended Answer* was ***served late***"

The **10/1/91** Answer was **filed and mailserved on the 14th day** following the **9/17** "15 day leave to amend" ruling. The ruling does not state that the mail be received by the served party, on the 15th day.

(B). **QUOTE** "*A copy of the Amended Answer served on the Moving Parties did not contain exhibits.*"

An **identical set of exhibits** (over 100 pages) was served with the previous Answer, filed on August 4.

(C). **QUOTE** "*The Amended Answer is a* ***rambling document*** *which is not in a proper form.*"

Judge Schneider condemned both my Answers without any explanation as to why the Answers were classified as "rambling documents". I went to such lengths in trying to comply with the judge's 9/17/95 ruling that I spent extra time following the legal language and format of Cross-Defendant JDC's Answer which **was** accepted.

(B). Loh was granted $576,000 in Default Judgment based on an Entry of Default obtained by FRAUD, against my wife.

My wife who 7 months later was dragged in as a ROE to Cross-Complaint **was never served** with the Roe Amendment, Summons, Cross-Complaint nor Request for Entry of Default.

In order to have an Entry of Default against my wife Loh committed a DOUBLE FRAUD on Court.

(FRAUD NO.1):

My wife's **name is not on the 'SERVICE LIST"** of Roe Amendment. [Respondent's Appendix 106] and **not on the "SERVICE LIST"** of Request for Entry of Default [Respondent's Appendix 114] despite the fact that both the pleadings were filed 6 weeks apart, indicating that it wasn't a pure coincidence, but a deliberate plan designed to deprive my wife the opportunity to come with an answer.

The alleged "SUMMONS" does not contain my wife's signature and also contains a fraudulent court stamp. (Respondent's Appendix 110-113). Analyzing the Court stamp:

(A). The "ORIGINAL FILED" is a manual forgery.

(B). The "DATE FILED" is a manual forgery.

(C). The "COUNTY CLERK" does not originate with Los Angeles Superior Court.

(FRAUD NO.2):

Loh then commited a Perjury and Fraud on Court by lying to Depart.52, claiming that my wife was served with

Roe Amendment, Summons and Cross-Complaint, and Request for Entry of Default.

Later, Loh commited the same double fraud on Court again, this time in Department 18, resulting in a $576,000 Default Judgement **against my wife.**

Again, my wife who knew most of the details of the case was not allowed to answer to the allegations.

By having surprised both the answers Loh created a negotiating power against my broker Jon Douglas.

The message to my broker was clear: Kravanders lost, apparently couldn't come with any answer to the allegations, so you will also lose, otherwords, you'd better pay. And Douglas did.

My wife was **not allowed to say a word to her defense** during the so called "Default Prove-ups".

It is a **Travesty of Justice to accuse a party and not allow the accused party to answer to the allegations**, and then to have a judgment rendered against the accused party, based on an alleged failure to answer.

3RD COMPLETELY FALSE GROUND.

$576,000 Default Judgment is founded on a Cross-Complaint which is completely frivolous.

My Proposed Answer toCross-Complaint (APP.31) supported by 44 EXHIBITS, plus Loh's Trial and Depository statements taken under oath, prove that **ALL 76 Paragraphs** containing substantial allegations **are completely false** Brief,p.22-26).

(1). Loh admitted that the allegations contained in Par.103,104,111,112, about being ***QUOTE:"injured in body by becoming emotionally distressed and physically ill, forced to seek medical attention and rest in bed"***, END QUOTE; were **bogus alegations**.(**Depo** APP.438):

LOH:"A few months, year, under this condition did I suffer ***would you say, emotional, physical now I have double vision, my foot troubles****."*
Q: Could you tell me what physical complaints you have as a result of emotional distress?
LOH: It is these things related, for example, ***like I say, the double vision*** *I think* ***mainly these things."***
Q: Do you have ***any plans to see new doctors*** *(except for the eyedoctor)* ***in the future because of your emotional distress****?*
LOH: ***I really don't know****, for example,* ***what kind of sickness may develop****, and* ***I have no idea****.*
Q: Do you have ***any appointments to see any additional doctors*** (except for the eyedoctor)?
LOH: ***Not at the present time****.*
Q: Do you have any plans to see a psychologist, psychiatrist?
LOH: ***Not at the present time."***

(2). In her Answer to Interrogatories: ***QUOTE "I do not have personal knowledge of the actions of Cross-Defendants or the damages incurred"*** *ENDQUOTE;* Cross-Complainant Mrs.Loh admitted that

the allegations contained in Par.103, 104,111,112, about being ***"injured in body by becoming emotionally distressed and physically ill, forced to seek medical attention and rest in bed"***, were **bogus allegations.**

(3). Loh' allegations contained in Par.101,109: QUOTE:"*Cross-Defendants ...* ***preyed upon the fact that*** *Cross-Complainants were* ***elderly and,*** *at times,* ***had difficulty with the English language.***" are **CONTRADICTED by their responses to INTERROGATORIES SHOWING** that both Cross-Complainants have college degrees (Doctor in Science/BS respectively) obtained in this country and the "**elderly**" W.Loh at the time (1988-1990) was **actively involved in an 800 unit development** project, holding own presentations "**in English**" at the City public hearings.

(TR.p.511,358)

Q: "Dr.Loh, you sound very knowledgeable on how, what it takes to get property developed, is that true?

LOH: That's true, because ***I'm developing property at that time*** (1989-1990) ***other than this.***"

LOH:"I say that was referred to the Santa Clarita project I showed to Mrs and Mr Kravander, they referred to ***the 800 units.***"

(4). Loh in his **suppressed Deposition** (APP.341,l.14) admitted that I never claimed that "ACI" was incorporated:

Q: When Mr.Kravander mentioned this potential buyer's doubt, ***did he refer to it American Charity or American Charity,Inc****.?*

LOH: ***I don't think he made that clear****.*

Q: Did he refer to it by name during this first coversation?

LOH: Yes, ***American Charity****.*

Q: Did Mr.Kravander tell you that American Charity was ***a corporation****?*

LOH: ***He didn't go into those****. He called it ACI."*

(5). In Par.20 of Cross-Complaint, Loh claims that it was in **FEBRUARY of 1989** [**END of JANUARY,1989** according to TR.p.302,312,313,356] that he discovered that American Charity and me were one and the same.

6 months earlier in the AUGUST 14,88 letter (APP.113) I made it absolutely clear for Loh that we were a part of American Charity buyer's concept. The letter says: "WE" appreciate your noble attitude and generosity shown "US", "WE" have been investigating, and "WE" would appreciate, etc. The letter never said "THE BUYER or "THEY" or "AMERICAN CHARITY", always "WE", standing fo me and my wife as the initial members of the American Charity concept.

Loh verified that the above letter was attached to the Purchase Agreement Form.

TR.453:

Q: This appears to be a letter dated AUGUST 14,88 to Wellington Loh from J.K.. What was your understanding of what this offer was that Mr Kravander was refer-

ring to when he asked about approval of this offer?
LOH: He has attached his offer to it so therefor I knew what his offer is.
Q: Is the offer that was attached, is that Exhibit 131
the Purchase Agreement?
LOH: That is correct.

The "END OF JANUARY/FEBRUARY 89" FRAUD allegation is also completely contradicted by the fact that only a few weeks later, on **FEBRUARY 22**, Loh entrusted his Beverly Hills property in my hands for development Brief,p.3-10).

Additionally, Loh would during the following 21 months allegedly "LEND" me ("a FRAUD") **$57,000, under a "verbal honorable agreement without any receipts or any questions asked**"

TR.401,1.10:

LOH:"On February 21,1989, he made this ***verbal request for advanced LOAN from commission****. I agreed to him for* ***maybe 10,15 percent out of his commission****. Then* ***after that agreement no more discussion****. Each time he ask for check, I give him a check.* ***Never ask any questions further****."*

(TR.228.1.10):

Q: "And you gave $56 or $57,000 out to somebody ***without getting it in writing****?*
LOH: I am the main ***promise on February 21st****.* ***It is my honor so I never asked questions****."*

(TR.246):

LOH:"I promised and I say in my life whatever honor I always whatever promise I always honor."

(6). According to Loh's sworn statement made during his Deposition (APPENDIX 439,1.3) the alleged FRAUD was not any FRAUD at all.

QUOTE:"As a man without money cannot buy, thinking of subdivide and so forth, OTHER THAN FRAUD from very beginnig. **How do you interpret that?** Is there any way that you can interpret it that way. NOT ADVERTISING, NOT MARKETING, THEN REDUCE PRICE. INCREASE PRICE FROM $3m TO $12M SO TO 7.5M to $8.4M I received all this documents other than a man try to commit fraud. No one in their reasonable mind would do things like that. Yet Forbes failed to supervise it"

The allegation "As a man without money cannot buy, thinking of subdivide and so forth, OTHER THAN FRAUD" is false as this was agreed to by Loh (Brief,pages 3-10)

The allegation "NOT ADVERTISING, NOT MARKETING" is also false as this was agreed to by Loh; TR.170,1.13; 171:
Q: Did you understand when John Kravander referred to the fact that he's not going to market your property in the regular manner?
LOH: Correct. Exactly correct.
Q: Understand that there will be NO advertising or form of public exposure?
LOH: Exactly. I **understand that.**

The allegation "THEN REDUCE PRICE" was a necessity, when it was discovered that Loh's property was landlocked **which fact Loh didn't disclose** at the time of signing of the listing agreement.

TR.152,1.6:
Q: Why did you want to return the listing?
LOH: Because in his letter on July 8,88, he say that there are many problems with the property, like ZONING have changed form 15 to 40,000 sq.ft per lot plus sewage problems so the price only worth 50% what it was listed for. about $3, $4 Million. Plus he found there are LANDLOCK on the property, plus landslide problems"

The allegation "**INCREASE PRICE FROM $3M to $12M so to $7.5M to $8.4M" is meritless**.

$3M was a price for a landlocked raw piece of land.

$12M was a net value of 7 developed estates.

$7,5 was the accepted price of developed land.

$8.4M was never mentioned in any existing documents. Loh must have taken this figure from the $8.4 THOUSAND he paid for the land at a county auction.

And the allegation "Yet FORBES failed to supervise it." is nothing else than an argument to extort from Forbes and his boss Jon Douglas based on the above bogus claims.

This is exactly how Loh saw the alleged FRAUD, **which** is no fraud at all.

(7). According to Loh's sworn testimony, he didn't have any concerns nor any suspicions whatsoever untill the very end of the project in October 90, when he found out about my expired real estate sales license.

(DEPOSITION, APP.310):

Q: Prior to October 6,90 which is the date you had the conversation with John Golden, did you have any concerns about the activities that John K was engaging in with regard to the property?

LOH: Prior to that I have never even think about that.

Q: That would be the first date that you started to suspect?

LOH: First. the day when John Golden told me." (which was OCTOBER 6,90)

According to this statement, not having a valid r.e.sales license was the only fraud that Loh knew about in October 90, when he breched the agreement, and everything else going 2 1/2 years back in time and up to this point was fine.

The only problem with this FRAUD theory is the fact that I didn't even try to sell any real estate during the entire 89 and 90 nor did I have any listing agreement with Loh during the above period of time.

The above clearly provs that there was no fraud on Cross-Defendants part whatsoever, and this also shows that Loh's entire Cross-Complaint is nothing alse than FRAUD.

and (8). The allegation that the American Charity concept was a "Fraud" is contradicted by the fact that both of us spent most of our career lives working with sick and disabled, plus that we were also actively **involved in a charitable project immediately prior to meeting with Lohs**. A letter from Jeffrey Foundation for handicapped children (APP.143) was

dated June 16,1988, 9 days prior to the first meeting with Lohs which took place on June 27, (Brief,p.2).

I had a standing agreement with JDC-owned San Vicente Escrow, to deduct 5% from all my commission earnings with JDC, for the benefit of Jeffrey's children.

The letter from Jeffrey Foundation submitted here as APP.143 was subpressed from being shown at the trial.

In Spring and summer of 1988 I also helped Jeffrey Foundation in selling their 3743 S.Barrington Av.,Mar Vista compound, for free, a commission saving worth $20,000.

$175,000 Settlement with JDC and the $576,000 Default Judgment is a TRAVESTY OF JUSTICE.

Thank you.

APPENDIX D

John Arius
24307 Magic Mtn Pkwy,#170
Valencia,CA 91355
818-807-4649
In Pro Per

SUPERIOR COURT OF THE STATE
OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

JOHN ARIUS, aka JAN RICHARD KRAVANDER,	CASE NO. BC 170070
Plaintiff,	First Amended Complaint Conspiracy to Defraud
vs.	C.C.C.P.338
JAMES E.McNAMARA, WELLINGTON LOH, aka HSIAO TUNG, AND DOES 1-10, Inclusive,	Department 23 Hon. Ronald Cappai
Defendants.	

Plaintiff, John Arius, alleges as follows:
///

GENERAL ALLEGATIONS

1. That the plaintiff John Arius, a.k.a. Jan Richard Kravander, resides in the County of Los Angeles, State of California.

2. That defendant, James E.McNamara (hereinafter "McNAMARA"), resides in the County of Los Angeles, State of California.

3. That defendant, Wellington Loh (hereinafter "LOH") a.k.a Hsiao Tung, resides in the County of Los Angeles, State of California.

4. That on or about October 7,1992, McNAMARA, held himself out to the public in general, and to plaintiff herein in particular, as a licensed attorney with offices located at 7130 Owenmouth Ave, City of Canoga Park, County of Los Angeles, State of California.

5. That on or about July 25,1992, plaintiff consulted with McNAMARA in his homeoffice with regard to a Cross-Complaint by LOH in an action, CASE NO.BC025183 filed with this court.

6. That on or about July 25,1992, McNAMARA was retained by plaintiff to prepare a Motion to Set Aside Default (EXHIBIT 15) in the above said action.

7. That on or about October 7,1992, McNAMARA was retained by plaintiff to fully represent him in the above said case (EXHIBIT 16), including plaintiff's Complaint against LOH, and other related actions.

8. That as a result of the aforementioned, an attorney-client relationship was created between plaintiff and defendant McNAMARA , in which he was to represent plaintiff, in the above said case.

9. That as a result of the attorney-client relationship, McNAMARA had a duty to represent plaintiff with the reasonable care, skill, diligence and honesty as ordinarily possessed and exercised by other attorneys in the community.

10. The First Cause of Action will show that McNAMARA conspired with LOH prior to the trial of Complaint, on or about July of 1993, by persuading plaintiff to agree to the bifurcation of the simple case; Complaint for Breach of Contract against LOH, versus LOH's Cross-Complaint in reference to the said Complaint.

The First Cause of Action will show that the bifurcation was a scheme, plus that McNAMARA also conspired with LOH prior to the March 9-17 trial, by withholding incriminating for LOH trial exhibits and other evidence.

11. That on March 9,1994, the plaintiff's bifurcated Complaint came on for trial in Superior Court, County of Los Angeles, State of California, following which a jury rendered a verdict on March 22,1994 for the defendant LOH. After an initial even split of 6 to 6, the final jury vote was 9 to 3,

12. The First Cause of Action will show that McNAMARA conspired with LOH also during the trial, by helping LOH to unjustly win the case.

13. The First Cause of Action will show that McNAMARA conspired with LOH also after the trial, by protecting LOH's interests till the very end of the agreement (April 28,1994), and into early May of 1994.

14. That as a result of McNAMARA's abandonment, plaintiff was left with the bifurcated Cross-Complaint, a product of McNAMARA

and LOH's bifurcation scheme. Not able to handle the remaining bifurcated case in Pro Per, plaintiff and his wife lost the $576,000 Defaults each on their Answers to LOH's bifurcated Cross-Complaint.

15. That as a result of the defendant's conspiracy to commit fraud, the plaintiff sustained and incurred monetary damages; and loss; to wit, the verdict, settlement or award ($170,000 as stated in the Bill of Particulars (EXHIBIT 18)] and the interest, which would have been recovered by the plaintiff, but for the defendants' conspiracy.

16. That as a result of McNAMARA's conspiracy and breach of duty to the plaintiff, the plaintiff lost the $170,000 sought award and was made liable for $163,205 in Attorneys' Fees to LOH; plus $10,000 in Attorneys' Fees to JDC; plus $576,000 in a Default judgments (also wife's) to LOH; plus the costs of Appeal ($5,500; plus paralegal school ($1,000); plus own representation and loss of income (36 months times $3,000 equals $108,000.
A total of $1,033,705 plus interest.

17. That solely by reason of the foregoing conspiracy of the defendants, plaintiff has been damaged in the sum of ONE MILLION THIRTY THREE THOUSAND and SEVEN HUNDRED FIVE DOLLARS; ($1,033,705) plus an award of exemplary and punitive damages on the First Cause of Action, in a sum not less than One Hundred Thousand Dollars ($100,000) plus the costs of this suit plus for such other and further relief as this court may deem just and proper.

18. That the damages sustained by the plaintiff, were caused by the defendants' conspiracy as hereinbefore set forth in detail and without any negligence contributing thereto on the part of the plaintiff.

19. As his attorney and counsel of record Defendant was in a fiduciary relationship of utmost good faith and fair dealing with plaintiff. Defendant took advantage of that relationship to gain the trust of plaintiff and preyed upon the fact that plaintiff didn't possess knowledge about the legal system or the court procedure, by using the relationship, information and trust to manipulate and deceive plaintiff to agree to certain things such as the bifurcation of the case, and other things to help his opponent LOH win the case.

20. The aforementioned conduct of the defendants was intentional and malicious, done with the intent to cause mental anguish, severe emotional harm and physical distress to plaintiff.

21. McNAMARA's moral turpitude at the time of the trial is furthermore demonstrated by his tax evasion toward IRS. EXHIBIT 32 (available through Appellant's appendix 1435-1447, and not included here for the sake of MCNAMARA's privacy) is dated March 7,1994, which is 2 days prior to the March 9,1994 trial. EXHIBIT 32 reflects McNAMARA's 1993 tax returns. In order to arrive at a zero income tax, McNAMARA lied to IRS about his income and about his business and home addresses.

These tax returns were handed over to plaintiff by McNAMARA together with the case file materials (2 boxes) at the April 19,1994 Motion to be Relieved from Record. The tax returns were discovered by plaintiff first in November of that year, a few days after the 1994 election. Immediately after the above discovery plaintiff confronted McNAMARA at his workplace in Monterey Park Juvenile Court. After McNAMARA's total ignorance of the mentioned tax returns and threat of imposing a restraining order on plaintiff's visits to

his workplace, plaintiff immediately ended the visit and instead submitted the taxreturns as an exhibit (Section dealing with LOH's corruption of McNAMARA) to his December 14,1994 Petition to stop the January 3,1995 planned legal extortion against JDC by LOH, filed with the Court of Appeal and Department of Justice. However in order to fully protect McNAMARA's privacy these tax returns were not included (not mentioned in the above petition nor in the Brief-Appendix) to the copies served on Respondents LOH and JDC.

FIRST CAUSE OF ACTION

CONSPIRACY TO COMMIT FRAUD

22. Plaintiff incorporates Paragraphs 1 through 21 of this Complaint as though fully set forth herein.

23. During the trial proceeding, Defendant LOH, wrote the following message (EXHIBIT 30.p.7) to his counsel: "Not show check to Jury first - then McMera (McNamara) quickly slip through this check without being noticed",

The message was written on the trial exhi- bit 300 and it is positively naming McNAMARA as being instrumental to LOH in a check scheme played in the courtroom, after plaintiff deman- ded that the subject check [EXHIBIT 30.p.11] original be shown to the jury. The check's footnote "Building permit for John" which was added later using a thicker pen, was subject to a check impeachment (on the content of the footnote) scheme.

McNAMARA was also instrumental in the above check scheme by allowing the trial exhibit 300 despite the fact that it was used as an exhibit in plaintiff's STRICKEN Answer to LOH's

bifurcated cross-complaint (TRANSACTION TWO).

(a). LOH's unique spelling "McMera" appearing on the trial message, is also occurring (all the 5 times) as "attorney McMera", in LOH's jury letters (EXHIBIT 24).

(b). LOH's trial message (EXHIBIT 30,p.7) "Not show check to Jury first - then McMera (McNamara) quickly slip through this check without being noticed", is positively verified by a court approved, certified document exami- ner Lynn Variano (EXHIBIT 30).

(c). LOH's counsel Makin in her appellate Brief admitted to the authenticity of LOH's trial message and that it was addressed to his own attorney. *"What the document appears to be is a message from respondent Wellington Loh to his own attorney.* (underlined)

(d). LOH's counsel Stiltman in his appellate Brief, a year earlier also admitted that LOH's trial message was addressed to "his own attorney".

24. The trial transcript shows that McNAMARA was instrumental to LOH by refusing to act on plaintiff's demand to ask LOH to show the check original (EXHIBIT 30,p.11) containing the footnote "Building permit for John", and being used in a check impeachment (of the footnote) scheme against plaintiff.

25. The trial transcript (p.739,17) shows that McNAMARA was instrumental to LOH by verifying the check's (EXHIBIT 30,p.11) footnote "Building permit for John" as if a fact.

The transcript (p.762,1.13) Closing statement shows that McNAMARA was instrumental to LOH by allowing false quotes related to the check impeachment scheme conducted earlier. Plaintiff's true response was: (QUOTE)

"I DON'T KNOW,I DIDN'T SEE THAT".

The transcript (p.377,l.23;378;762 (closing)) shows that McNAMARA allowed the statement "Building permit for John" as if a fact.

McNAMARA's rebuttal closing argument (TR,p.766,l.18) shows that he was instrumental to LOH by admitting to LOH's falsely alleged "Building permit for John" as if a fact. McNAMARA's admission was intentional as he knew that the footnote did not originate with the check and was added to the check post-factum, using a thicker pen (EXHIBIT 30,p.11).

26. The trial transcript (p.762,l.13 Closing), shows that McNAMARA was instrumental to LOH by allowing false quotes related to the check impeachment scheme conducted earlier. Plaintiff's true response was: (QUOTE)
"I DON'T KNOW,I DIDN'T SEE THAT".

27. McNAMARA was instrumental to LOH by persuading plaintiff to agree to the bifurcation of the simple case; Complaint for Breach of Contract (EXHIBIT 11) versus Cross-Complaint (EXHIBIT 12-A).
The July 1993 bifurcation (EXHIBIT 16) of the above simple case was a scheme serving two purposes.
(a). The case had to be bifurcated prior to trial otherwise the jury would have looked through the absolute frivolousness of the Cross-Complaint.

(b). The BIFURCATED Cross-Complaint instead of being tried separately was included to and dominated the trial of the BIFURCATED Complaint.

28. The side-bar transcript (p.476,l.18) shows that McNAMARA knew that the tried Com-

plaint also contained LOH's bifurcated Cross-Complaint.

McNAMARA: "There is a lot of special instructions that deal with really more with the Cross-Complaint made by the defendant rather than ..."

29. McNAMARA was instrumental to LOH by agreeing to the bifurcation in spite of having knowledge that the bifurcated Cross-Complaint was absolutely frivolous, The proposed answer to LOH's Cross-Complaint (EXHIBIT 12-B) proves that it is completely frivolous. Here are a few examples:

(A). Cross-Complainant Mr.Loh admitted that the allegations contained in Par.103,104, 111,112 QUOTE: *"Both Cross-Complainants .. were injured in body by becoming emotionally distressed and physically ill, forced to seek medical attention and rest in bed"*, were false.

[LOH's Deposition,p.II-29 (EXHIBIT 13)]:

LOH: "A few months, year, under this condition did I suffer would you say, emotional, physical now I have double vision, my foot troubles."

Q: Could you tell me what physical complaints you have as a result of emotional distress?

LOH: It is these things related, for example, like I say, the double vision I think mainly these things."

Q: Do you have any plans to see new doctors (except for the eyedoctor) in the future because of your emotional distress?

LOH: I really don't know, for example, what kind of sickness may develop, and I have no idea.

Q: Do you have any appointments to see any additional doctors?

LOH: Not at the present time.

Q: Do you have any plans to see a psychologist, psychiatrist?

LOH: Not at the present time."

Cross-Complainant Mrs.LOH in her Answer to Interrogatories: (EXHIBIT 14)

"*I do not have personal knowledge of the actions of Cross-Defendants or the damages incurred*" admitted that the above allegations were false.

(B). Lohs' allegations contained in Par.101,109: "*Cross-Defendants preyed upon the fact that Cross-Complainants were elderly and, at times, had difficulty with the English language.*" are CONTRADICTED by the fact that both Cross-Complainants have college degrees (Doctor in Science/BS respectively) obtained in this country (INTERROGATORIES) and the "elderly" W.Loh at the time (1988-1990) was actively involved in an 800 unit development project, holding own presentations "in English" at the City public hearings.

(IR.p.511,358):

Q: "Dr.Loh, you sound very knowledgeable on how, what it takes to get property developed is that true?

Loh: That's true, because I'm developing property at that time (1989-1990) *other than this."*

Loh: I say that was referred to the Santa Clarita project I showed to Mrs and Mr Kravan- der, they referred to the 800 units."

(C). In Par.20, LOH claims that it was in FEBRUARY of 1989 [END of JANUARY,1989 according to TRANSCRIPT, p.302,312,313,356-369] that he found out about the alleged "FRAUD".

The FRAUD allegation is completely contradicted by the fact that only a few weeks later, on FEBRUARY 22,1989, LOHs entrusted their Beverly Hills property in plaintiff's ("a FRAUD") hands for development (EXHIBIT 5).

Additionally, Loh would during the following 21 months "LOAN" plaintiff "a FRAUD" $57,000, under a "verbal, honorable agreement without any receipt or questions asked":

LOH: "On February 21,1989, he made this verbal request for advanced LOAN from commission. I agreed to him for maybe 10.15 percent out of his commission. Then after that agreement no more discussion. Each time he ask for check, I give him a check. Never ask any questions further."
Q: "And you gave $56 or $57,000 out to somebody without getting it in writing?
(IR.401.1.10)
LOH: I am the main promise on February 21st. It is my honor so I never asked questions."
(IR.228.1.10)
LOH: "I promised and I say in my life whatever honor I always whatever promise I always honor." (IR.246)

30. McNAMARA allowed the bifurcated Cross-Complaint's frivolous allegations in spite of knowing that plaintiff did not withhold as much as one dollar from the $700 and $300 checks given directly to him. $971.36 was spent on various City fees according to receipts IR.578.1.15-24;579.1.2-9;579.1.14)
The balance of $28.64 was spent on 4 parking fees (3 fees in L.A.Downtown).

31. McNAMARA allowed the bifurcated Cross-Complaint's frivolous allegations in spite of having knowledge that LOH received $250,000 worth of improvements for the price of only $57,000, paid with checks addressed directly to the contractors working on the property. Plaintiff furthermore saved Respondent tens of thousands of dollars by selecting engineers from such remote locations as S.Barbara and W.Covina, including making at least 15 trips to the above locations, plus 7 full day trips to Desert Hot Springs, in order to maintain the ACCESS lot Escrow (for ONLY $10,000) to Loh's ($7,500,000) landlocked property. Plaintiff did not ask for one dollar

in advance for gas (40,000 miles), etc. during the course of the project.

32. McNAMARA allowed the bifurcated Cross-Complaint's frivolous allegations in spite of knowing that LOH deprived plaintiff of his right to answer to the Cross-Complaint by placing plaintiff in a default on the grounds that his detailed answer was "a rambling document that was SERVED LATE".

Plaintiff's wife was 7 months later included as a ROE and also placed in a default despite the fact that she was never served with LOH's Cross-Complaint. Plaintiff and his wife who knew the details of the case were not allowed to answer to LOH's $5,620,000 Cross-Complaint targeting plaintiff's affluent real estate broker Jon Douglas, who didn't know any details of the case to defend LOH's extortional frivolous allegations.

33. The trial transcript (p.3,l.7) shows that while the jury was absent the judge remind ed the counsels that the tried transaction was bifurcated.

"We are in open court, the jury is absent, counsel and the parties are present As I understand it, the parties have agreed to handle this case in a BIFURCATED FASHION, which essentially will provide the following: that under the general instructions, we will submit to the jury the issue of which party's version of the TRANSACTION is accurate or true, then the balance of the issues that may remain after that will be submitted to the court for adjudication

The trial transcript shows that the jurors were never informed about that the case was BIFURCATED. Consequently the jurors were misled by being presented with two separate bifurcated transactions (COMPLAINT AND CROSS-

COMPLAINT), instead of only the COMPLAINT, the transaction that was formally adjudicated for trial.

The transcript (p.732,l.27; 729,l.9) show that the jury instructions also contained the words: "and you are going to tell us, if you can, which of the party's version of this transaction is true." and "The plaintiff has the burden of proving by a preponderance of the evidence all of the facts necessary to establish that his version of the transaction as stated in the special verdict is true." The transcript shows that the jurors were never informed about the meaning of "transaction", or that it was reflective of the bifurcation.

34. McNAMARA was instrumental to LOH in allowing the QUESTIONS TO JURY (EXHIBITS 25) to be a mix of two separate, bifurcated transactions in spite of the judge's above oral instruction plus the jury instructions reflected by the trial transcript (p.732):

"We will give you a special verdict form, which is essentially going to be asking you really one question. And in essence, it's going to describe the positions of the parties, and you are going to tell us, if you can, which party's version of THIS TRANSACTION is true."

McNAMARA never explained to the jury the word "transaction" in the context of the BIFURCATION, consequently the jury voted on a case that did not represent the transaction (COMPLAINT) adjudicated for trial.

35. The trial record shows that McNAMARA was instrumental to LOH in allowing the JURY INSTRUCTIONS to be a mix of two bifurcated transactions (COMPLAINT AND CROSS-COMPLAINT).

36. The trial transcript (p.733) shows that McNAMARA was instrumental to LOH in

allowing the JURY INSTRUCTIONS TO DE CEIVE THE JURY into believing that Defendant LOH's Closing Statement was based on evidence;

"And of course counsel are going to now state on behalf of their clients what they believe THE EVIDENCE SHOWS and what the respective positions of their clients are.", In fact McNAMARA did not contest the defendant's Closing Statement mostly containing UNSUPPORTED, UNDEFENDABLE and GROSSLY PREJUDICIAL allegations from the bifurcated CROSS-COMPLAINT.

37. The trial transcript (p.727;729) shows that McNAMARA was instrumental to LOH in allowing the JURY INSTRUCTIONS to contain false and highly prejudicial matters related to REAL ESTATE SALES ETHICS stemming from the bifurcated Cross-Complaint (TRANSACTION NO.TWO).
The fact is that there was no valid sales agreement and no real estate sales activity whatsoever taking place during the 2/22/1989 - 11/2/1990 Agreement to Develop, that the case was adjudicated to be tried based on.

38. The trial transcript (p.691-709) shows that McNAMARA was instrumental to LOH by allowing false and highly prejudicial REAL ESTATE EXPERT TESTIMONIES related to REAL ESTATE SALES ETHICS" the subject of the 1988 REAL ESTATE SALES ACTIVITY stemming from the bifurcated Cross-Complaint (TRANSACTION TWO). The fact is that No real estate sales activity whatsoever taking place during the 2/22/1989 - 11/2/1990 Agreement to Develop, that the trial of Complaint was adjudicated for.

39. The trial transcript (p.707-710, 727,729,751,763) shows that McNAMARA was instrumental to LOH in using the above stated false and highly prejudicial REAL ESTATE EXPERT TESTIMONIES related to REAL ESTATE SALES

ETHICS, in a SCHEME designed to prejudice the jury against plaintiff.

The transcript (p.707-710) shows that McNAMARA was instrumental to LOH by agreeing to and even admitting on behalf of the plaintiff to the above stated false and highly prejudicial REAL ESTATE EXPERT TESTIMONIES instead of contesting these false allegations derived from LOH's Cross-Complaint (TRANSACTION TWO).

The transcript (p.751,l.18-28,763) shows that LOH's counsel in her closing statement, referred to McNamara's above stated admission as a "PROOF" of plaintiff's alleged breach of fiduciary duty toward LOH.

The transcript (p.723,l.3) shows that the judge in the jury instructions referred to McNamara's admission as a "PROOF" of plaintiff 's alleged breach of fiduciary duty toward LOH.

40. The trial transcript (p.68-74,76-80, 84-90,92,94,96-98,113,300-307,309-314,353, 355-359,364-365,369-372,376,433-436,445,448,450,452 -457,497,529-532,535-540) show that McNAMARA was instrumental to LOH in allowing the FRAUD allegations related to the 1988 REAL ESTATE SALES ACTIVITY" stemming from the bifurcated Cross-Complaint (TRANSACTION TWO) to dominate the trial of Complaint (TRANSACTION ONE). The fact is that there was no valid sales agreement and no real estate sales activity whatsoever taking place during the 2/22/1989 - 11/2/1990 Agreement to Develop, that the trial of Complaint was adjudicated for.

41. The trial transcript shows that McNAMARA was instrumental to LOH in allowing the subject of 1988 REAL ESTATE SALES ACTIVITY stemming from the bifurcated Cross-Complaint (TRANSACTION TWO) to dominate the trial of the TRANSACTION ONE. The fact is that there was no valid sales agreement and no real estate sales

activity whatsoever taking place during the 2/22/1989 - 11/2/1990 Agreement to Develop, the trial of Complaint was adjudicated for.

McNAMARA knew that the 6/18/1988 Listing Agreement (EXHIBIT 2) was valid for 180 days. It EXPIRED on 12/18/1988 and was never extended, the fact verified by JDC Executive Vice President (EXHIBIT 9). McNAMARA also knew that the 8/15/1988 Purchase Agreement (EXHIBIT 3) was valid for a period of 90 plus 30 days, it EXPIRED on 12/15/1988, and was never extended nor amended.

McNAMARA also knew that on February 22, 1989 (2 months after the sales agreements ended), the parties entered the Agreement to Develop (EXHIBITS 4,5).

42. The trial transcript shows that McNAMARA was instrumental to LOH by failing to bring the subpoenaed JDC file (EXHIBIT 19-B). despite the fact that the file would prove that the 6/18/1988 Listing Agreement (EXHIBIT 3) was valid for 180 days. It EXPIRED on 12/18/1988 and was never extended, the fact verified by JDC Executive Vice President (EXHIBIT 9). The file would also prove that the listing ended 2 months prior to the February 22,1989 Agreement to Develop LOH property (EXHIBITS 4,5).

The transcript (p.660,l.25; 661,l.1) shows that McNAMARA knew that the 6/18/1988 Listing Agreement (EXHIBIT 3) was valid for 180 days and that it EXPIRED on 12/18/1988.

43. The trial transcript (p.428,l.14) shows that McNAMARA was instrumental to LOH by objecting to LOH counsel's asking LOH about JDC's response (EXHIBIT 9) to his letter verify ing that the listing expired in December 1988.

The transcript (p.430,l.14) also shows that McNAMARA was instrumental to LOH by

objecting to LOH counsel's quoting from JDC's response (EXHIBIT 9) to his letter verifying that the listing expired on December 15,1988.

This resulted in that LOH on the following pages (431,432) referred to the above letter falsely claiming that the listing still was valid after December 15,1988. The transcript shows that McNAMARA did not object to the above false statements. McNAMARA's above objections and lack thereof were intentional as it prevented LOH from admitting to the fact that the listing expired prior to the 2/22/1989 agreement.

44. The trial transcript [closing, p.760] shows that McNAMARA was instrumental to LOH by allowing him to falsely claim that the 6-18-1988 - 12-20-1988 listing agreement was valid at the time of the February 22,1989 Agreement.

45. The trial transcript (p.495,496) shows that McNAMARA was instrumental to LOH by asking him if plaintiff was a good agent despite the fact that the matter belonged to the bifurcated Cross-Complaint and that the 6/18/1988 Listing Agreement (EXHIBIT 2) EXPIRED on 12/18/1988, prior to the 2/22/1989 - 11/2/1990 Agreement to Develop.

46. The trial transcript shows that McNAMARA was instrumental to LOH by failing to bring the subpoenaed San Vicente Escrow file (EXHIBIT 19-A). despite the fact that the file would prove that the 8/15/1988 Purchase Agreement (EXHIBIT 3) was valid for a period of 90 plus 30 days, that it EXPIRED on 12/15/1988, and was never extended nor amended.

The file would also prove that the Escrow ended 2 months prior to the February 22,1989 Agreement to Develop LOH property (EXHIBIT 4.5)

47. The trial transcript (p.315,l.23) shows that McNAMARA was instrumental to LOH by

allowing him to falsely claim that the Escrow was still valid as of January 30,1989, despite the fact that the 8/15/1988 Purchase Agreement (EXHIBIT 3) EXPIRED on 12/15/1988 after 90 plus 30 days.

The Escrow file would also prove that the Escrow ended 2 months prior to the February 22,1989 Agreement to Develop LOH's property (EXHIBITS 4,5).

The transcript (p.759,l.1; 761,l.10) shows that McNAMARA was instrumental to LOH by repe- atedly allowing him to falsely claim that the Escrow was valid at the time of the February 22,1989 Agreement".

48. The trial transcript (p.753,l.23) shows that McNAMARA was instrumental to LOH in the closing statement by falsely claiming that the Escrow was "completely separate and distinct from the February 22,1989 Agreement" despite the fact that the Escrow ended in 1988.

49. The trial transcript (p.435,l.3) shows that McNAMARA was instrumental to LOH by covering up LOH's admission to the fact that plaintiff never intended to purchase the proper ty for his own benefit, which was contrary to the "FRAUD" allegations. McNAMARA intentionally moved to strike LOH's incriminating admission clearly undermining the validity of his cross-complaint.

50. The trial transcript (p.296,l.2;395-398) shows that McNAMARA was instrumental to LOH by failing to prevent the witness tampering by LOH and his counsel Makin during a period of approximately 20 minutes outside the courtroom, prior to D.Garrett's testimony. The witness's objective testimony was crucial to establishing LOH's breach of the agreement, the basis of the Complaint. EXHIBIT 11 is a January 3,1991 letter from the City of L.A. in response to

Garrett's inquiry into the Kirkland Drive access lot held by plaintiff in Escrow for the benefit of LOH's development project. The letter refers to Garrett's NOVEMBER 12,1990 inquiry, which was the time of LOH's breach the agreement with plaintiff.

The transcript (p.393,l.5) shows that McNAMARA stated that he knew that the witness Garrett's testimony was being used for the impeachment purposes.

51. The trial transcript (p.395-399) shows that McNAMARA was instrumental to LOH by failing to examine the witness on the subject of the January 3,1991 letter (EXHIBIT 11) from the City of L.A. in response to Garrett's November 12,1990 inquiry into the Kirkland Drive access lot.

McNAMARA's withholding of the content of the November 12,1990 letter was intentional as the letter was crucial to Garrett's testifying in court due to the fact that his work for LOH occurred immediately after LOH's breach of agreement with plaintiff in Oct-November 1990.

The remaining line of questioning shows that McNAMARA was instrumental to LOH by asking Garrett irrelevant questions with the exception of two questions (after plaintiff's demand) related to his conversation with LOH and Makin outside the courtroom. However McNAMARA failed to ask why they were talking for 20 minutes despite plaintiff's wife's repeated demands to stop it.

52. EXHIBIT 24-A shows that McNAMARA was instrumental to LOH in a jury tampering attempt McNAMARA's handwriting containing the name "Kravander" is visible in the top portion of LOH's first letter dated MARCH 18,1994 and addressed to the jury during the March 18-22, 1994 deliberations.

Paragraph 110 shows that McNAMARA was instrumental to LOH in covering up the above letter during and after the jury deliberations.

53. The trial transcript (p.353,l.16) shows that McNAMARA was instrumental to LOH by allowing him to falsely allege that the ACI buyer was mentioned in a July 15,1988 letter and that it would be only "11 days" after the marketing start. In fact the initial listing was signed on June 18,1988 (EXHIBIT 2) and the marketing started on the very same day, which equals to 27 days. McNAMARA also knew that LOH did not disclose that the property was landlocked and that the above made it impossible to sell the property for $7,500,000, the price LOH categorically refused to lower.

54. The trial transcript shows that McNAMARA was instrumental to LOH by not contesting these bifurcated FRAUD allegations in spite of knowing that these allegations were completely false (Paragraph 26).

McNAMARA was instrumental to LOH by never attempting to balance these false "FRAUD" allegations by any references to plaintiff's past or his most recent charitable involvement.

(a). Such references would show that plaintiff spent 20 years of his career life working with the sick and disabled.

(b). The "FRAUD" allegations with respect to the "American Charity"concept should be countered with the fact that July 15,1988 "American Charity" concept was based on plaintiff's charitable involvement with the "Jeffrey Foundation for Handicapped Children" during Spring and Summer of 1988.

EXHIBIT 1 is a letter from the above foundation dated June 16,1988, a reflection of plaintiff's agreement with Jon Douglas (plaintiff's broker) owned San Vicente Escrow, to deduct 5% of all his commission earnings with

JDC for the benefit of the Jeffrey's children. McNAMARA knew that plaintiff during Summer of 1988 helped the Jeffrey's children in selling their 3743 South Barrington Avenue compound, for free, a commission saving worth $20,000.

The trial transcript shows that McNAMARA failed to show the above mentioned enlarged letter exhibit reflecting this charitable agreement.

The trial transcript and the record show that McNAMARA failed to bring the subpoenaed San Vicente Escrow file [EXHIBIT 19-A] also containing the above charitable agreement.

55. The trial transcript shows that McNAMARA was instrumental to LOH by not even allowing mentioning of LOH's Deposition (EXH 13) containing over 60 contradictions to his frivolous bifurcated FRAUD cross-allegations.

The trial transcript shows that McNAMARA was instrumental to LOH by never impeaching LOH, based on the above depository statements and LOH's many trial testimony contradictions.

The transcript (p.725,l.1) shows that the jury instructions made clear references to the significance and validity of deposition:

"A deposition is testimony taken under oath before the trial and preserved in writing. You must consider that testimony as if it had been given here in court."

56. The trial transcript of a side-bar conference (p.436,l.3) shows that McNAMARA was instrumental to LOH in allowing a series of consecutive, totally unfounded attacks on plaintiff's character:

MAKIN: Did Mr.Kravander ever threaten you?

JUDGE: I'll see counsel at the side-bar. Are we getting near the end?

MAKIN: I'm almost at the end of this portion. I need to go back and clear up a few things that were specifically attacking his ... but I'm done with the bulk of it."

In one of these attacks (p.404,405) plaintiff was falsely accused for stealing the $300 and $700 checks written directly to him and designated for various City fees. First, on the following day, after plaintiff's expressed demand did McNAMARA exonerate plaintiff by presenting the receipts.

57. The trial transcript (p.453,454) shows that McNAMARA knew that plaintiff's AUGUST 14,1888 (trial exhibit 130) letter (EXHIBIT 3-A) was attached to the Purchase Agreement and that the letter made it clear that he was a part of ACI, by always (four times) referring to the ACI buyer as: "WE" or "US". In spite of that McNAMARA was instrumental to LOH by allowing him to falsely claim [p.302,312,313, 356-369] that it was in JANUARY of 1989, that he found out that plaintiff was a part of "ACI".

58. The trial transcript shows that McNAMARA was instrumental to LOH by never attempting to balance the false "FRAUD" allegations by any references to plaintiff's positive character manifestations such as in the case of the "found wallet with 100 dollars" incident in plaintiff's employer JDC's garage.

During the manager Forbes's examination (TR.p.668) McNAMARA intentionally mispronounced the name of the JDC employee "ELIZANDE" (typed in CAPITALS on the first page of the Forbes questions).

McNamara: Now do you know a Margarite ELLINGSON? (instead of ELIZANDE)
Forbes: No.
McNamara: ALEXANDER? (instead of ELIZANDE)
Forbes: No."

59. The trial transcript shows that McNAMARA was instrumental to LOH in not opposing nor contesting LOH's Opening and Closing Statements, mostly containing UNSUPPORTED and UNDEFENDABLE GROSSLY PREJUDICIAL allegations from the bifurcated CROSS-COMPLAINT.

60. The trial transcript [Opening,p.790 ,l.1; 799,l.4) and Closing (p.749,l.24)] show that McNAMARA was instrumental to LOH by never attempting to correct such false and prejudial allegation derived from LOH's bifurcated cross-complaint's (TRANSACTION TWO) 1988 sale activity, as being accused of using a non existent lender,

The transcript (p.306) shows that McNAMARA did the above during LOH direct examination.

McNAMARA knew that the lender's correctly spelled name was "Primera Internacional Bancorp .S.A." [EXHIBIT 27 (EXH.39)]. In spite of that McNamara intentionally wouldn't correct these false and prejudicial remarks.

61. The trial transcript (Opening,p.787 ,790,791 and Closing) show that McNAMARA was instrumental to LOH by never attempting to correct such false and prejudicial allegation derived from LOH's bifurcated cross-complaint's (TRANSACTION TWO) 1988 sale activity, as being accused of claiming that "American Charity" (ACI) was incorporated. McNAMARA knew well that LOH in his Deposition (EXHIBIT 13,p.II-46, l.14) admitted that plaintiff never made such a claim. In spite of that McNamara intentionally wouldn't correct these false and grossly prejudicial remarks among many others.

The transcript (p.716,l.17) also shows that McNAMARA did not object to the trial exhibits 274 and 275 showing American Charity's non filing status.

62. The trial transcript (Closing, p.748,l.24 and Opening) show that McNAMARA was instrumental to LOH by never attempting to correct such false and prejudicial allegation derived from LOH's bifurcated cross-complaint's 1988 sale activity, as being accused of claiming that there was "No MLS exposure".

McNAMARA knew well that the MLS exposure of the adjacent 10 acre property was used in 1988 marketing of LOH's property.

The transcript shows that McNAMARA never made any references to the trial exhibit 109 reflecting the above MLS advertising.

63. The trial transcript (closing, p.748,l.1 and opening) shows that McNAMARA was instrumental to LOH by never attempting to correct such false and prejudicial allegation derived from LOH's bifurcated cross-complaint's 1988 sale activity, as being accused of "rounding up" a falsely alleged $7,125,000 amount to $7,500,000, where in fact LOH's own suggested price-setting formula "MORE THAN $500k PER ACRE" translated to "MORE THAN $7,280,000" based on the acreage equaling to "14.56 acres".

64. The above 3 paragraph examples are based on a list of 19 false contentions (EXHIBIT 23) contained in LOH's Opening statement.

Plaintiff prepared this list for McNAMARA so that he would counter these false allegations. The list comes from McNAMARA's file which is positively proven by his handwriting "Kravander" on the list. This can be compared to McNAMARA's "Kravander" on the jury letter (EXHIBIT 24-A) verified by a court approved document examiner (EXHIBIT 31). In spite of that McNamara intentionally wouldn't correct these false and grossly prejudicial statements.

65. McNAMARA's closing argument (p.744; 735,l.7,l.28) show that he was instrumental to LOH by making incriminating statements as

related to plaintiff's reaching the 2-22-1989 agreement with LOH: "You saw him he lit up."; "he wanted to go forward with this deal." "This was Mr.Kravander's dream" "This was his dream." LOH counsel later used McNAMARA's incriminating statements in her closing argument; "I'm sure that this property was Mr.Kravander's dream", "Mr.Kravander had a dream to make tons of money", "But it was a pipe dream" and "He and his dream was just never going to happen"

66. McNAMARA's closing argument (p.735, l.17) shows that he was instrumental to LOH by admitting to and taking into evidence LOH's alleged 1-30-1989 letter in which LOH allegedly discouraged plaintiff from pursuing with any development plans.

McNAMARA's rebuttal closing argument (p.764,l.12-28) also shows that he was instrumental to LOH by admitting to LOH's alleged 1-30-1989 letter in which LOH allegedly discouraged plaintiff from pursuing with any development plans. McNAMARA's above acts were intentional as this was done in spite of plaintiff's categorical denial of ever receiving the alleged letter.

67. McNAMARA's closing argument (p.736, l.20) shows that he was instrumental to LOH by calling plaintiff "INEXPERIENCED" as related to his reaching the 2-22-1989 agreement with LOH: McNAMARA's above acts were intentional as it allowed LOH's counsel to use his incriminating statement in her closing argument; "He didn't know what he was doing".

68. The record shows that McNAMARA was instrumental to LOH by preventing plaintiff's wife who was subpoenaed [EXHIBIT 27 (EXH.34)] by LOH, from testifying, This after she disclosed to McNAMARA that she intended to prove the fact that LOH falsified her handwriting on

a Purchase agreement form in an attempt to impeach her. EXHIBIT 21 contains the fake trial exhibit ("272:") description, the fabricated trial exhibit, the real purchase agreement form, plus a handwriting evaluation.

McNAMARA's refusal to bring plaintiff's wife who was subpoenaed to testify in the above matter was intentional because she was about to disclose LOH's fraud. This despite the fact that she was present, readily available to testify throughout the entire trial proceeding, and that the trial ended ONE FULL DAY EARLIER than scheduled.

69. The transcript shows that LOH's counsel NEVER CROSS-EXAMINED plaintiff's wife. In spite of that McNAMARA was instrumental to LOH by allowing LOH to assault her by means of many false allegations and attacks on her character in the Opening and Closing statements.

McNAMARA's refusal to allow plaintiff's wife to defend these assaults was intentional because this would give her an opportunity and constitutional right to defend herself and clear LOH's false accusations and greatly humiliating attacks on her character while she was present, readily available to testify throughout the entire trial proceeding, and that the trial ended ONE FULL DAY EARLIER than scheduled

70. The trial transcript of a side-bar conference (p.345-349) shows that McNAMARA was instrumental to LOH in allowing his deliberately perjurious testimonies. During the above conference LOH's counsel shared with McNAMARA the details of her plan designed to coach Loh to lie to certain events in order to create a grossly prejudicial picture of his alleged "high image".

MAKIN: "It directly goes to why he trusted Kravander. I imagine one of the things THE JURY WILL BE WONDERING is as to why he would trust Kravander and why he would, you

know,fall for this. And the reason is because this is a man, as I said in the opening, who has always been ...he's got a high level of security clearance and always been.."

MAKIN: "I didn't expect him to answer that way when I asked him the question."

WILLENS:(Assistant counsel) "Your Honor, on his background don't you think it is relevant to credibility."

MAKIN: "I didn't expect him to say again he bought it at auction. I was going to have him testify to "OTHER FACTS". It goes to his sophistication. I expected him to "testify" he was wandering down the street and there was this auction." "what you will see within the next five, ten minutes, my PLAN, I went through it with him, ALL my questions in my PLAN is to fill in the gaps."

Despite knowing about LOH's perjurious court strategies McNAMARA's never shared LOH's illegal strategies with plaintiff, nor did he do anything to prevent the above acts of Fraud on court and clear cut obstruction of justice and to seek disciplinary action including asking for a retrial.

McNAMARA was also instrumental to LOH in allowing a series of prejudicial schemes designed to elevate LOH's Image.

LOH's 3-9-1994 Trial Brief clearly indicated that the case was to be tried on the basis of prejudice: *"credibility of these two men will be an issue in the trial of this case"*

McNAMARA allowed and promoted [over 100 "Dr.Loh" references (Par.68)] LOH's "not of this world" alleged integrity picture to be made prevalent throughout the trial proceeding. Example: (p.752 (CLOSING))

"This is a man that can't be trusted, This is a man that is not honest. Now lets compare

him with Dr.Loh This is a man that spent his entire adult life around people of just the highest integrity. That's the reason he was fooled by Mr.Kravander. It never occurred to him like someone like Mr.Kravander would come along and do something like this to him.

Was Dr.Loh too trusting? Absolutely, but that's being too trusting is the worst fault that he had."

The jurors were not aware of that Dr.Loh quitted the field of science at a very early age to make millions as a general contractor, A "Fixer-upper" of Los Angeles slums, and a notorious landlord sued by tenants [Alvarado (C616285); Garcia (NWC36390,90E09636), etc.].

Loh: "All the parcels purchased from the County Tax sale. It's altogether probably over 100." "Through tax sales; $10, $20, few hundred."

"It's those of the WATTS, those properties that burned in the very small,and I usually rebuild it and sold sometime later."
[Deposition,p.I-15-17]

71. The trial transcript will show that McNAMARA was instrumental to LOH by treating him with almost royal venerance and calling him constantly "Doctor LOH". In fact over 100 times. 36 times in the Closing Argument and 10 times in the final 2 1/2 minute rebuttal (every 15 seconds).

McNAMARA was not by any means obligated to refer to LOH as "Dr.LOH" as he knew that LOH was only a retired (since 15 years) physicist (Ph.D. after a 3 year school (p.343.1.26). During the past 15 years, a real estate developer and "landlord" (notorious for being sued by tenants, injured in LOH's poorly maintained apartment buildings), not deserving such a preferential, royal treatment. As a lawyer McNAMARA was aware that it was prejudicial to

call a party "DOCTOR" and particularly when done by the opponent's counsel.

To the contrary McNAMARA was never saying anything positive about plaintiff's character (see Par.51) and particularly in the context of LOH's constant attacks on plaintiff's character and totally unfounded accusations stemming from LOH'bifurcated, uncontested Cross-Complaint.

72. The trial transcript (p.631,632, l.23) shows that McNAMARA was instrumental to LOH by allowing LOH to bring to the trial the matter of an alleged $520,000 property value decrease between 1988 and 1993, stemming from LOH's bifurcated Cross-Complaint (TRANSACTION TWO).

This despite the fact that the Oct.1,1993 appraisal was conducted 3 years after plaintiff stopped working for LOH. Furthermore, McNAMARA knew that the DataQuick's real estate sales statistics (EXHIBIT 20) showed a 30% INCREASE in property values during the time of plaintiff's employment between February-1989 and November-1990. McNAMARA's failure to cross-examine (p.637) the expert witness was intentional as it helped LOH to make a false claim of the alleged losses.

The transcript (p.685-691) shows that on the following day during his cross-examining, McNAMARA failed to ask the witness in reference to the frivolous matter of the alleged $520,000 property value decline between 1988 and 1993.

The transcript (p.448,l.18; 713,l.8) shows that McNAMARA repeatedly objected to L.A.Times article containing DataQuick's real estate sales statistics (EXHIBITS 20) showing a 30% INCREASE in property values during the time of plaintiff's employment.

The alleged "DECREASE" was included to the $576,000 Default Judgment [$520,000 plus $56,000] against plaintiff and his wife.

73. The trial transcript (p.214,221,223-225,228,234-236,246,281-282,300-301,364,366-377 401,408,415,440,445,472,473,481,484-485,494,555 -557,559-560) plus Opening and Closing, show that McNAMARA was instrumental to LOH by allowing the "$56,000 LOAN" allegation stemming from the bifurcated Cross-Complaint (TRANSACTION TWO) to be included to the trial of the Complaint. This despite the fact that there was not a single piece of evidence supporting such a "LOAN" and the claimed amount was a total of checks issued by LOH directly in the name of contractors working on LOH's property.

TR.401,L.10:

LOH: "On February 21,1989, he made this verbal request for a dvanced LOAN from commission. I agreed to him for maybe 10,15 percent out of his commission. Then after that agreement no more discussion. Each time he ask for check I give him a check Never ask any questions further.

TR.228,L.10:

Q: "And you gave $57,000 out to somebody without getting it in writing?

LOH: I am the main promise on February 21st. It is my honor so I never asked questions."

TR.246:

LOH: "I promised and I say in my life whatever promise I always honor."

74. EXHIBITS 25-A and 25-B show that McNAMARA was instrumental to LOH by allowing the frivolous "$56,000 LOAN" allegation stemming from the bifurcated Cross-Complaint to be included to the QUESTIONS TO JURY.

75. EXHIBIT 25-B shows that McNAMARA was instrumental to LOH by changing the final

Questions to Jury without plaintiff's consent.

This time McNAMARA allowed the frivolous "$56,000 LOAN" allegation stemming from the bifurcated Cross-Complaint (TRANSACTION TWO) to be included to plaintiff's own case's part of the QUESTIONS TO JURY. This put plaintiff in a defensive, NEGATING, negative, loser position and did not represent plaintiff's own case.

EXHIBIT 25-A represents the Questions to Jury which were presented to plaintiff. This is supported by the fact that the above Questions to Jury were 9 months after the trial included as an Exhibit to plaintiff's December 14,1994 Petition to the Court of Appeal and Department of Justice.

76. The trial transcript (p.469-490) shows that McNAMARA was instrumental to LOH by allowing a "$56,000 LOAN" PROVE-UP SCHEME related to the bifurcated Cross-Complaint (TRANSACTION TWO).

Defendant LOH was allowed 20 minutes of the trial time to deceive the jury that his own handwritten notes containing such comments as "LOAN TO JOHN" was as a "PROOF" of the alleged loan. This despite the fact that there is not a single piece of evidence supporting such a "LOAN" claim, and the claimed amount was a total of checks issued by Respondent directly to the contractors working on LOH's property.

The transcript (p.469,l.25;470,l.1;470, l.20;471,l.11;482,l.25;484,l.13;487,l.23,488, l.26;489,l.19; 490,l.11) show that McNAMARA was instrumental to LOH by allowing his handwritten notes containing such comments as "LOAN TO JOHN" to be admitted into evidence for the alleged "$56,000 LOAN".

LOH later refers to this "LOAN PROVE-UP" in his second jury-letter (EXHIBIT 24-B) *"Loan Statement - not easily proved but proved"* (UNDERLINED).

77. McNAMARA's rebuttal closing argument (p.765,l.6) shows that he was instrumental to LOH by admitting to LOH's earlier falsely alleged "$60,000 LOAN from commission" as if it were a fact. McNAMARA's admission was intentional as it was made based entirely on a hearsay.

78. The LOAN allegation was a major part of Loh's bifurcated Cross-Complaint (EXHIBIT 12-A,12-B, Par.47,49,51,55,64,83,89).

The alleged "LOAN" was included to the $576,000 Default Judgment [$520,000 plus $56,000] against plaintiff and his wife.

79. The trial transcript (p.324-336) shows that McNAMARA was instrumental to LOH by not allowing witness Jack Linderman to present the remaining 50 percent of the enlarged exhibits showing plaintiff's work on the development project between April 1989 and October 90.

McNAMARA's failure to present the remaining exhibits was intentional, not to show the full extent of plaintiff's work, considering the fact that the trial ended ONE FULL DAY EARLIER than scheduled. The questions prepared for Lindenrman's examination are contained in EXHIBIT 27 (EXH-31).

80. The trial transcript (p.324-336) shows that McNAMARA was instrumental to LOH by not allowing witness Jack Linderman to present his cost breakdowns EXHIBIT 10) for the main estate and include these as trial exhibit.

McNAMARA's failure to present the remaining exhibits was intentional as these cost-breakdowns were reflective of the way plaintiff was to be compensated for his work from the construction financing,

81. The trial transcript shows that McNAMARA was instrumental to LOH by refusing to use the 240 questions prepared by plaintiff for

LOH's examination [EXHIBIT 27 (EXH.2-5)]. These questions were based on LOH's Deposition and contained his many factual admissions.

Plaintiff was authorized by McNAMARA to spend hundreds (close to a thousand) of hours out of McNAMARA's and his own offices in preparing these questions and other trial related materials. EXHIBIT 26 is McNAMARA's letter of authorization in which he calls plaintiff: "LAW CLERK at this office".

The transcript also shows that McNAMARA was instrumental to LOH by not using any of the special 36 questions prepared by plaintiff for LOH's examination [EXHIBIT 27 (EXH.19)]. These questions contained his many factual admissions

The transcript also shows that McNAMARA was instrumental to LOH by not using any of the 10 page summary [EXHIBIT 27 (EXH.22)] of LOH's Answer to Complaint containing his many factual admissions and contradictions.

McNAMARA's refusal to use the above stated materials at the trial was to pro tect LOH, and also considering the fact that the trial ended ONE DAY EARLIER than scheduled.

82. The record shows that McNAMARA was instrumental to LOH by denying an Afro-American witness the right to testify in court. The witness was subpoenaed [EXHIBIT 27 (EXH.14)] but not allowed to testify entirely because his court appearance would have affected the 7 Afro-Americans jurors in a more positive way toward plaintiff whos character was constantly assaulted by the uncontested bifurcated cross-allegations. The questions prepared for Leon Johnson's examination are contained in EXHIBIT 27 (EXH-15). McNAMARA's refusal to bring the subpoenaed witness to court was intentional, considering the fact that the trial ended ONE FULL DAY EARLIER than scheduled.

83. The record shows that McNAMARA was instrumental to LOH by failing to bring to court the subpoenaed [EXHIBIT 27 (EXH.12)] witness John Abell. The questions prepared for J.Abell's examination [EXHIBIT 27 (EXH.13)] reflect the importance of the witness's testimony as it would show the extent of plaintiff's work in connection to J.Abell suvey-engineering plus plaintiff's many trips (15) to the distant West Covina location, and many coordinating trips to the land. McNAMARA's refusal to bring J.Abell to court was intentional as it would show the full extent of plaintiff's work and there was plenty of time considering that the trial ended ONE DAY EARLIER than scheduled.

84. The record shows that McNAMARA was instrumental to LOH by failing to bring to court the subpoenaed [EXHIBIT 27 (EXH.10)] witness Brian Adler. The questions prepared for B.Adler's examination [EXHIBIT 27 (EXH.11)] reflect the importance of the witness's testimony in connection to LOH's case.

McNAMARA's refusal to bring B.Adler to court was intentional as it would show the full extent of plaintiff's work and there was plenty of time considering that the trial ended ONE FULL DAY EARLIER than scheduled.

85. The trial transcript;p.608,l.16,17 shows that McNAMARA was instrumental to LOH by completely failing to cross-examine the subpoenaed witness Erroll Horwitz. The questions prepared for E.Horwitz's examination [EXHIBIT 27 (EXH.30)] reflect the importance of the witness's testimonyin connection to LOH's case.

McNAMARA's refusal to examine Erroll Horwitz who was handling plaintiff's legal matters related to the project was intentional as it would show the full extent of plaintiff's work and there was plenty of time considering that the trial ended ONE DAY EARLIER than scheduled.

86. The record shows that McNAMARA was instrumental to LOH by failing to bring to court the witness Yair Koshet. The questions prepared for Yair Koshet's examination [EXHIBIT 27 (EXH.37)] reflect the importance of the witness's testimony in connection with LOH's authorizing plaintiff to work with architect Y.Koshet on a Mullholland Drive adjacent joint access project.

Plaintiff spent approximately one year (EXHIBIT 7) on the above project.

McNAMARA's refusal to bring Y.Koshet to court was intentional as it deprived the jury of knowing the full extent of plaintiff's work and there was plenty of time considering that the trial ended ONE FULL DAY EARLIER.

87. The trial transcript shows that McNAMARA was instrumental to LOH by completely failing to ask him about authorizing plaintiff to work with Yair Koshet on the Mullholland Drive access project while cross-examining LOH (TR.236,237,238,239,240,241) on the subject of the letters leading to the said project.

McNAMARA's refusal to verify plaintiff's work on the Mullholland Drive joint access project was intentional as it deprived the jury of knowing the full extent of plaintiff's work and that he spent approximately one year (EXHIBIT 7) on the above project.

88. The trial transcript (p.574,l.22; 575,l.3; 575,l.12) shows that McNAMARA was instrumental to LOH by repeatedly objecting to LOH's counsel's cross-examining plaintiff on the matter of Ben Reznik's involvement in the Mullholland Drive joint access project,

McNAMARA's above objections were intentio- nal as it deprived the jury of knowing the full extent of plaintiff's work and that he spent one year (EXHIBIT 7) on the above project.

89. The trial transcript (p.601,l.3-28) shows that McNAMARA was instrumental to LOH by objecting to LOH's counsel's examining witness Erroll Horwitz on the matter of the Mullholland Drive joint access agreement.

McNAMARA's above objections were intentio- nal as it deprived the jury of knowing the full extent of plaintiff's work and that he spent one year (EXHIBIT 7) on the above project.

90. The trial transcript (p.759,l.1) shows that McNAMARA was instrumental to LOH by allowing him to falsely testify about that there was a 2-21-1989 meeting between LOH and plaintiff between plaintiff's 2-20-1989 letter proposal EXHIBIT 4 and LOH's 2-22-1989 letter approval EXHIBIT 5 of the Agreement.

91. The trial transcript (p.244) shows that McNAMARA was instrumental to LOH by allowing LOH's counsel to come with a grossly perjurious story in reference to his written admission to doing architectural plans together with plaintiff: "*WE ARE DOING OUR OWN PLANS AT THE MOMENT*". EXHIBIT 8 contains LOH's JUNE 21, 1989 response to a developer in reference to an architect agreement signed 2 months earlier (EXHIBIT 6).

92. The trial transcript (p.462-463) shows that McNAMARA was instrumental to LOH by allowing LOH's counsel to come with another grossly perjurious story, a CORRECTION of his two days earlier perjurious story in reference to his written admission to doing architectural plans together with plaintiff: "*WE ARE DOING OUR OWN PLANS AT THE MOMENT.*" (supra).

This time McNAMARA allowed LOH to fool the jury into believing that the architectural PLANS referred to in his letter (EXHIBIT 8) were only "PICKNIK PLANS": "*SOMETIME ASK ME*

WHAT YOUR PLANS, I JUST SIMPLY SAY WE HAVE PLANS".

93. The trial transcript (p.95,l.22; 96,l.14) shows that McNAMARA was instrumental to LOH by repeatedly objecting to LOH counsel's cross-examining plaintiff on the matter of the 5-1-1990 letter and insisting that the letter which was coerced by LOH, be accepted into the evidence on its face value.

McNAMARA's above objections and insisting was intentional as it deprived plaintiff of the opportunity to explain LOH's coercion.

94. The trial transcript (p.415,l.19; 416,l.12) show that McNAMARA was instrumental to LOH by repeatedly objecting to LOH counsel's asking LOH about how many checks he wrote to contractors working on the project.

McNAMARA's above objections were intentional as it at that moment prevented LOH from admitting to the charges raised by the case.

95. The trial transcript (p.445,l.22) shows that McNAMARA was instrumental to LOH by objecting to LOH counsel's asking LOH: "Do you believe that he (plaintiff) owes you any money"

McNAMARA's objection: "I think that called for a "yes" or "no" answer." was intentional as it established LOH's answer "I would think so", but prevented LOH from explaining to the jury as to how plaintiff owed him money.

96. The trial transcript (p.427,l.17) shows that McNAMARA was instrumental to LOH by objecting to LOH's counsel asking LOH about the events leading to plaintiff's termination by LOH.

McNAMARA's: "I object. This whole line of questioning has nothing to do with development of the property." was intentional as it preven-

ted LOH from admitting to the breach of contract which the case was about.

97. The trial transcript (p.437,l.15; (438);439,l.8) show that McNAMARA was instrumental to LOH by objecting to LOH's counsel asking LOH if he confronted plaintiff after JDC's response (EXHIBIT 9), used by LOH as the basis to his breaching the contract by firing plaintiff.

McNAMARA's above objections were intentional as it prevented LOH from admitting that he breached the agreement without even talking to plaintiff.

98. The record shows that McNAMARA was instrumental to LOH by failing to bring to court the subpoenaed [EXHIBIT 27 (EXH.7)] witness August Co.

The questions prepared for August Co. examination [EXHIBIT 27 (EXH-8)] reflect the importance of the witness's testimony as it would show the extent of plaintiff's work in connection with August Co. soildrillings.

McNAMARA's refusal to bring August Co. to court was intentional considering the fact that the trial ended ONE DAY EARLIER than scheduled.

99. The trial transcript (p.114,l.15; 115,l.10) show that McNAMARA was instrumental to LOH by repeatedly objecting to LOH's counsel cross-examining plaintiff on the matter of the $5,000 check and LOH's letter to August Co. in which he was trying to make plaintiff liable for his own debt:

McNAMARA: "I DON'T THINK THIS WITNESS CAN ANSWER ANYTHING."

The transcript (p.407,l.10.; 408,l.20) shows that McNAMARA was instrumental to LOH by repeatedly objecting to LOH's counsel reading from LOH's letters to August Co. and AAA, in which LOH made plaintiff liable for $4,240

balance on the bill to August Co after LOH paid the initial $5,000.

McNAMARA's above objections and the false statement were intentional as it deprived plaintiff of the opportunity to explain how he was set up by LOH to become liable for the $4,240 balance on LOH's $9,240 debt after LOH paid August Co. the initial $5,000 through a check.

100. The trial transcript (p.408,l.28.; 409,l.19; 410,25; 441,l.10) shows that McNAMARA was instrumental to LOH by repeatedly objecting to LOH's counsel referring to a dispute over the $4,420 balance on the bill to August Co. after LOH paid the initial $5,000.

McNAMARA's above objections were intentional as it deprived the jury of the opportunity to see plaintiff's loyalty in protecting LOH from being overcharged by August Co. and LOH's disloyalty by setting plaintiff up for LOH's debt to a contractor working on his property.

The transcript (p.716,l.17) also shows that McNAMARA did not object to trial exhibit 266 showing a $4,240 AAA Award to LOH. The jury were not aware that LOH disloyally set plaintiff up for the above amount.

101. The trial transcript shows that McNAMARA was instrumental to LOH by not cross-examining him on the matter of providing August Co. with a lawyer from LOH's lawfirm, representing him in the above case, to make plaintiff liable and to pursue him with a judgment for LOH's outstanding bill to August Co.

Plaintiff lost and was hit by a $6,137 Judgment after being given wrong time for court appearance by LOH's lawfirm.

102. McNAMARA's deliberate failure to explain or deny LOH's many false evidentiary claims was devastating for plaintiff's case.

The trial transcript (p.724,l.25) shows that the jury instructions were very specific in this regard: "In determining what inferences to draw from the evidence, you may consider, among other things, a party's failure to explain or deny such evidence."

103. The trial transcript also shows that McNAMARA's made legitimate objections and defenses. The fact is that many of these legitimate manifestations came first as a result of plaintiff and his wife's expressed demands to correct or address numerous areas such as in the case of the $300 and $700 receipts, or LOH's "OUR (architect) PLANS" clarification at closing, or the eviction letter handled at a side-bar, and others.

104. After the March 22,1994 verdict McNAMARA sought to terminate the attorney-client agreement. This in spite of LOH's remaining bifurcated Cross-Complaint and cross-actions with JDC. McNAMARA who was instrumental in the bifurcation of the case, sought now to abandon plaintiff in the middle of his case.

In a March 30,1994 letter (EXHIBIT 26) McNAMARA alleges that the reason for his abandonment of the case was that plaintiff raised his voice while discussing the case in McNAMARA's office and that he interpreted this as a threat. During the above meeting Plaintiff was unhappy and disappointed by McNAMARA's lack of loyalty at the trial, but he never lowered himself to threatening McNAMARA. McNAMARA simply was looking for any excuse to get out of the case. After plaintiff uttered the words "You helped my opponent", McNAMARA instead of responding to the incriminating allegation, cowardly shouted the threatening words "OUT OF MY OFFICE I'm calling police", to establish a track of an alleged threat.

Plaintiff left immediately after McNAMARA threatening request. His statement EXHIBIT 26):

"Due to the fact that I hung up the phone prior to an answer, the 911 operator telephoned my office to discover if, any emergency still existed." clearly indicates that McNAMARA was not threatened, otherwise he would hang on instead of hanging up the phone. McNAMARA's hanging up also shows that plaintiff immediately left and that his departure from the office was so immediate that it occurred before the 911 operator was able to respond.

The April 22,1994 letter (EXHIBIT 26) verifies that McNAMARA sought to abandon plaintiff on March 28,1994, which is 6 days after the verdict:

"The time in which to file some post-trial motions has past, However, if you or your new counsel feel that you have a good post-trial motion (s), a potential argument to file a post-trial motion beyond the time limit is that you and I had no real attorney client communication since March 28,1994.

105. During the posttrial meeting and the phone conversations that took place between the March 22nd verdict and early May of 1994, McNAMARA was instrumental to LOH and strongly protective of his interests by appealing to plaintiff to give up on LOH, accept the verdict as just and final, and that any action against the verdict would only be a futility, a waste of time and money. After plaintiff in a last phone conversation firmly stated that he was determined to pursue justice in the case, McNAMARA sarcastically responded: "Why don't you just give up, you will only grow old continuing with this case." The tone of the posttrial letters was not as strong for obvious reasons. The March 30,1994 and April 22,1994 letters show however that McNAMARA was instrumental to LOH by discouraging any post trial actions.

"I also advised you that it is not likely that the court would grant this motion (For a judgment not withstanding the verdict) after the verdict." (EXHIBIT 26)

"I have advised you in previous letters upon my review and research of the related issues, I did not feel that any post-trial motions should be made. I had advised you of this fact in my previous letters"(EXHIBIT 26).

106. The posttrial letters show that McNAMARA was instrumental to LOH by not informing plaintiff about a possibility of appeal, until the April 22 (or 24),1994 letter (EXHIBIT 26). When plaintiff received the letter on Monday April 26, he was left with only 3 1/2 weeks to find an affordable appellate attorney prior to the deadline for filing a Notice of Appeal (plus deciding on a Selection under Rule 5.1 or otherwise). This resulted in that plaintiff had no other choice than to handle the appeal in Pro Per and he consequently lost.

107. Plaintiff's April 26,1994 Response (EXHIBIT 27) to McNAMARA's Motion to be Relieved from Record, brought to the court's attention 31 paragraphs showing McNAMARA's role in helping LOH, including 10 paragraphs (Introduction, Par.I,XXI,XXII,XXIII,XXV,XXVII, XXVIII,XXXI,Conclusion) specifically accusing McNAMARA of corruption and betrayal.

Due to the President Funeral Day holiday occurring on April 27th, McNAMARA in a phone conversation agreed to be served with plaintiff 's Response to his motion, in court, 30 minutes prior to the April 28,1994 motion hearing.

McNAMARA read the entire Response very carefully in the courtroom, handing each page over to LOH's counsel Willens who was sitting beside McNAMARA.

LOH counsel's presence at the hearing was very suspicious considering that the motion was

an internal affair between McNAMARA and his client. It indicates that McNAMARA informed LOH about the suspicions raised by plaintiff and that LOH must have been very concerned with respect to McNAMARA's posttrial well-being, by sending his counsel to provide a young lawyer with a moral support and also to make sure that the young attorney would not damage LOH.

After the hearing McNAMARA and LOH's counsel left the court together heading towards the same direction.

108. The April 28,1994 Motion transcript (EXHIBIT 28) shows that McNAMARA did not deny any of the 10 Paragraphs of corruption allegations contained in Plaintiff's Response (EXHIBIT 27) to his Motion to be Relieved from Record.

McNamara adoptively (BY SILENCE) admitted to all 10 Paragraphs of corruption allegations.

109. Immediately after the motion hearing McNamara made an (adoptive-judicial) admission in writing. McNAMARA's April 28,1994 letter-response (EXHIBIT 29) demonstrates that out of 31 Paragraphs of allegations contained in Plaintiff's Response (EXHIBIT 27) McNamara responded only to 21 Paragraphs, but did not respond at all to the 10 Paragraphs (Par.I,XXI, XXII,XXIII,XXV,XXVII,XXVIII,XXXI,Conclusion) specifically accusing him of being corrupted by his client's opponent. In the above letter McNAMARA continues to protect LOH by deceiving plaintiff with regard to certain areas of the conspiracy.

110. McNAMARA was instrumental to LOH after the trial by covering up LOH's first jury tampering-letter (EXHIBIT 24-A). McNAMARA's handwriting containing the name "Kravander" is visible in the top portion of the letter dated MARCH 18,1994 and addressed to the jury during the March 18 - 22,1994 deliberations.

The letter was found in the two casefile boxes kept by McNAMARA. The boxes were returned to plaintiff at the April 19,1994 hearing.

LOH's second jury letter (EXHIBIT 24-B) dated March 19,1994 does not contain McNAMARA's handwriting and was found in the casefile.

McNAMARA's handwriting is positively verified by a court approved, certified document examiner Lynn Variano (EXHIBIT 31).

Despite receiving the letter and being aware of LOH's jury tampering efforts, McNAMARA never shared the letter with plaintiff, nor did he do anything to prevent the above act and to seek disciplinary action including asking for a retrial.

In this grossly prejudicial letter LOH is portraying himself as a "super GOOD GUY" and portrays Plaintiff as a "very BAD GUY".

LOH is also pleading for the jurors sympathy due to alleged financial difficulties.

111. These acts of conspiracy were made by the defendants with the intent to defraud, deceive and betray plaintiff, with the purpose of helping LOH, win the case.

112. As a direct and proximate cause of the aforementioned acts of the defendants, plaintiff lost the case.

113. The aforementioned conduct of the defendants was intentional misrepresentation, betrayal, deceit or concealment of material facts known to the defendants with the intention on the part of the defendants of thereby depriving plaintiff of legal rights or otherwise causing injury; and was despicable conduct that subjected plaintiff to a cruel and unjust hardship in conscious disregard of plaintiff's rights, so as to justify an award of exemplary and punitive damages in a sum not less than One Hundred Thousand Dollars ($100,000).

WHEREFORE, plaintiff prays judgment against the defendants as follows:

1. For the actual damages, in the sum of ONE MILLION THIRTY THREE THOUSAND and SEVEN HUNDRED FIVE DOLLARS; ($1,033,705) plus interest, as specified under the General Allegations;

2. For an award of exemplary and punitive damages, in a sum not less than One Hundred Thousand Dollars ($100,000) as specified under the First Cause of Action.

3. For the cost of the suit incurred herein; and

4. For such other and further relief as this court may deem just and proper.

DATED: July 1,1997

JOHN ARIUS a.k.a
Jan Richard Kravander

In Propria Persona

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing First Amended Complaint for Conspiracy to commit Fraud. I am a party of this action. The matters stated in the foregoing document are true of my knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on July 1,1997, at Los Angeles, California. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

JOHN ARIUS

Signature

APPENDIX E

John Arius
24307 Magic Mtn Pkwy,#170
Valencia,CA 91355
818-807-4649
In Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

JOHN ARIUS, aka JAN RICHARD KRAVANDER, plaintiff, vs. JAMES E.McNAMARA, WELLINGTON LOH, aka HSIAO TUNG, AND DOES 1-10, Inclusive, Defendants.	CASE NO. BC 170070 Request for Dismissal of Motion scheduled till July 11,1997; 8:30 a.m. and Declaration of John Arius Hon. Ronald Cappai Department 23

Plaintiff, John Arius, hereby requests to dismiss Motion filed by his former attorney Sohaila Sagheb, on the following grounds:

1. Plaintiff has never authorized any of the pleadings filed with his court on June 30,1997, by his former attorney Sohalia Sagheb.

2. Plaintiff was not informed that these pleadings were filed with the court on June 30,1997, by his former attorney Sohalia Sagheb.

The letter dated June 26,1997, in which Sagheb informed plaintiff about the June 30, 1997; 8:30 a.m. court hearing was received by plaintiff on Monday,June 30,1997, after the court hearing.

3. On Sunday, June 29,1997, plaintiff had a phone conversation with Sagheb. During the above conversation, plaintiff and Sagheb agreed upon the following:

A. Plaintiff agreed to relieve Sagheb from the case.

B. Sagheb and plaintiff agreed that plaintiff would personally go to court, with the Substitution of Attorney Application prepared and signed by Sagheb, (submitted here as EXIBIT A), and that plaintiff would also file his First Amended Complaint in Pro Per.

C. Sagheb and plaintiff agreed that plaintiff's wife Kristina Eva Arius, was to pick up the Substitution of Attorney Application, from Sagheb's Woodland Hills office, on June 30,1997 at noon time. It was also agreed on that at the above visit, plaintiff's wife would pick up the trial transcripts and Loh's deposition,

EXIBIT B is a copy of Sagheb's Acknowledgment of Receipt signed by plaintiff's wife in Sagheb's presence, on June 30,1997.

4. During the June 29,1997 conversation-agreement, Sagheb said that she was

planning to go to court with the Substitution of Attorney application and that she was relieved by plaintiff's willingness to do the filing with the court.

5. At no time during the June 29,1997 conversation-agreement, did Sagheb mention the June 30,1997,8:30 a.m. scheduled court hearing, nor that she was planning to file a Request for Extention of Time to file First Amended Complaint on plaintiff's behalf.

6. The court record shows that on June 30,1997,8:30 a.m. a court hearing was conducted on Sagheb's behalf, and that Sagheb filed a Request for Extention of Time to file First Amended Complaint on plaintiff's behalf.

This in spite of Sagheb's and plaintiff's June 29,1997 agreeing to that plaintiff would personally go to court to file his First Amended Complaint, in Pro Per, together with the Substitution of Attorney Application (EXIBIT A) handed by Sagheb personally to plaintiff's wife in Sagheb's office on June 30,1997 (noon).

7. On July 1,1997, plaintiff filed his First Amended Complaint, in Pro Per, together with the Substitution of Attorney Application (EXIBIT A) provided by Sagheb, a day earlier, in accordance with the June 29,1997 agreement, not knowing that Sagheb on June 30,1997 went behind his back and made additional and duplicate filings with the court in contradiction with the above agreement.

8. On July 5,1997 plaintiff was surprised to receive a letter from Sagheb containing copies of Sagheb's additional Substitution of Attorney Application, plus a Request for Extention of Time to file First Amended Complaint, both bearing the court's filing stamp dated: June 30,1997.

9. Sugheb's filing of Request for Extention of Time to file First Amended Complaint is both unauthorized and frivolous.

Furthermore on June 23,1997, Sagheb agreed to prepare a Writ of Certiorary on plaintiff's behalf, in reference to the January 30,1997 appellate decision in the underlying action; BC25183.

Sagheb knows that the filing date for the Writ of Certiorary is July 23,1997, which is only 3 weeks away from her filing of Request for Extention of Time to amend complaint.

Sagheb also knows that being in Pro Per, plaintiff has absolutely no time for attending any court hearings nor making any additional amendments of his complaint, while preparing his Writ.

Sagheb also knows that plaintiff has a very limited monthly budget and after have paid the initial $5,000 in the above case his recent legal budget has shrunk to only $777, an amount not sufficient to retain a new attorney.

10. Sugheb's Declaration and Points and Authorities, contain numerous untrue statements some of which are contested in plaintiff's Declaration.

Being under a pressure to meet the July 23,1997 deadline plaintiff has no time to conduct a thorough analysis of Sagheb's extensive pleadings also considering that these pleadings do not have any legal relevance or substance, as they were made behind his back and without plaintiff's knowledge and authorization.

It doesn't make any sense that Sagheb would create approximately 50 pages of pleadings, after plaintiff agreed to sign Sagheb's Substitution (EXIBIT A) reading as follows:

"Please take notice that Plaintiff John Arius substitutes himself, in pro per, as

attorneys of record in place and stead of the Law Offices of Sohaila Sagheb."

For what purpose? Sagheb didn't have to exonerate herself with this court as plaintiff fully agreed to, that he would sign and file Sagheb's own Substitution Application, in its submitted form without any strings attached.

Plaintiff didn't have any intentions to file any additional pleadings with this court, to disclose any details related to the attorney-client relationship with Sagheb.

The above most peculiar behavior and Sagheb's desperate attempts to prevent plaintiff from amending his complaint with or without an attorney, plus other incidents described in plaintiff's Declaration, make plaintiff to believe that Sagheb's redundant and completely unnecessary pleadings behind his back are designed to prejudice this court against plaintiff and to help the defendant.

CONCLUSION

Sagheb's Request for Extention of Time to file First Amended Complaint, scheduled to take place in this court, on July 11,1997, is both unauthorized by plaintiff and in contradiction to the agreement reached by Sagheb and plaintiff, on June 29,1997.

In accordance with the above agreement, on July 1,1997, plaintiff personally filed his First Amended Complaint in Pro Per, plus the Substitution of Attorney Application provided by Sagheb (EXIBIT A) on June 30,1997.

For the foregoing reasons the July 11,1997 scheduled hearing must be vacated.

The parties; Sagheb and McNamara will be served with this Request, by high priority certified mail, following a telephone message as to the content thereof.

DATED; July 7,1997

JOHN ARIUS

In Propria Persona

DECLARATION OF JOHN ARIUS

I, John Arius, declare:

1. I am the plaintiff in the above-captioned matter.

2. On June 11,1997, Sohalia Sagheb agreed to represent me in the above case as outlined in the agreement submitted here as EXHIBIT D-1.

3. At the June 12,1997 Motion to Demur hearing, we were granted a 20 day leave to amend. Sohalia Sagheb's immediate reaction outside the courtroom was positive and her comment was: "It was a victory for us".

Thereafter she said that she was ready to start working on the amendment of my complaint, requesting that I would to the next meeting bring the trial transcript plus Wellington Loh's deposition.

4. Sagheb's June 17,1997 letter (EXHIBIT D-2) indicates that she was already preparing me psychologically to concede my Complaint.

In her letter, Sagheb falsely alleges that his Honor announced that he would strike my First Amended Complaint regardless.

"I realize that you were present, but I think that it is important for you to understand the scope of the ruling by reading this letter. ... Without having seen the first amended complaint and/or demurrer to the amended complaint, the court has already ruled that it is going to sustain that demurrer without leave to amend. If that is the case .. I believe that an appeal would be appropriate."

5. During the June 18,1997 meeting, Sagheb's attitude dramatically changed and she seemed to be not on my side of the case.

Sagheb talked entirely about C.C.P.340.6 in spite of the fact that my Complaint for "FRAUD" is not governed by and excluded from C.C.P.340.6.

As I was not convinced by Sagheb's assess- ment of my case, I expressed my willingness to research into the Code of Civil Procedure dealing with "FRAUD". Sagheb first discouraged me from going to the law-library and after I insisted, referring to my paralegal skills, she then suggested that I should look into such unfavorable to my case areas of law as: Breach of Contract (C.C.P.337), and damages in reference to C.C.P.340.6.

6. In her June 18,1997 letter (EXHIBIT D-3) Sagheb is only referring to such unfavorable to my case areas of law as: Breach of Contract (C.C.P.337) and damages in reference to C.C.P.340.6. despite the fact that my Complaint for "FRAUD" is not governed by any of the above stated Codes.

7. During the June 23,1997 tele-conference Sagheb categorically stated that there was no use nor any legal ground to amend my Complaint for legal malpractice nor for any other action against McNamara, and therefore I should sign away my rights in the above legal matter.

8. On June 23,1997, after Sagheb's earlier demonstrated pro-McNAMARA attitude, I decided to go the Law library to personally research into C.C.P.338, governing my Complaint for Fraud.

It took me only 2 hours to read through the content of Deering's C.C.P.338 and to discover that it also incorporates "Conspiracy to defraud", or "to commit fraud" civil action.

The content of all the paragraphs of my Complaint overwhelmingly point to a "Conspiracy to defraud" rather than the technical term "Fraud".

Almost all of the paragraphs of my original Complaint contain a conspiratorial connotation: "McNAMARA was instrumental to LOH ..."

Furthermore, Paragraphs 101-103, describe the conspiracy after the trial verdict by means of defendant's verbal advice and letters (one of the last letters dated April 28,1994 (plus recently discovered letters dated in May of 1994) all protecting my opponent's interests, also cover up of Loh's first letter to jury bearing McNamara's handwriting on it, described in Par.49.

Both "Fraud" and "Conspiracy to defraud" related actions are obviously under the same 3-year statute of limitation, however the statute in the latter action begins to run first after the last act of conspiracy.

Furthermore, a pendency of appeal (till January 30,1997) tolls the accrual of the statute of limitations in a Conspiracy action.

9. In her June 23,1997 letter (EXHIBIT D-4,page 6), Sagheb again urges me to sign away my rights against McNamara in the above legal matter:

"At this juncture I believe that you must dismiss the case and possibly get a release from the defendant so that he does not attempt to pursue a malicious prosecution action against you for having filed this action."

In her letter Sagheb continues deceiving me by designating 5 pages analyzing C.C.P.340.6 despite the fact that my complaint for "Fraud" is governed by C.C.P.338.

Sagheb was fully aware that my action was excluded from C.C.P.340.6, based on the following quote appearing on page 1 of her letter:

"An action against an attorney for a wrongful act or omission other than for actual fraud ..."

10. In my June 24,1997 letter (EXHIBIT C), I brought to Sagheb's attention my C.C.P. 338 findings conducted a day earlier. Furthermore, I became increasingly suspicious based on Sagheb's pro-McNAMARA attitude demonstrated through her June 23,1997 conversation and letter.

Based on the above suspicions and anticipating that Loh would target my new attorney in a case dealing with Loh's corruption of my former attorney, I made an emotional appeal to Sagheb, in which I encouraged her to resist any

potential intimidation and to report such an intimidation to me and to the Attorney General's office.

11. During the June 26,1997 4:30 p.m. meeting, Sagheb seemed to admit that I was right with regard to the C.C.C.338 distinction between "Fraud" and "Conspiracy to Defraud".

In spite of this Sagheb refused to amend my complaint.

I then pleaded to Sagheb to at least help me rewrite my legal language in compliance with an accepted standard. Sagheb refused saying that she was not a "secretary" and that she would never do such a thing.

I then reminded Sagheb that her June 26,1997,4:30 p.m. decision to breach our agreement left me with only 3 working days (6/27,6/30,7/1) to amend the complaint, and that it would make it impossible for me to find an attorney and to have him get involved into my 40 page long (100 paragraphs) Complaint plus introduction to the other aspects of the case, in such a short period of time.

After Sagheb insisted that she would not amend my complaint, I reminded her that her breach of the agreement would leave me with no other possibility than to amend my Complaint in Pro Per.

I also made her aware that her refusal to fulfill her contractual obligation and abandonment of my case was inexcusable and in case my opponent would file demurer to my First Amended Complaint, resulting in a dismissal of my case, I would have no other choice than to file a malpractice action against her.

I also stated outside the office that she put me in a terrible situation only 5 days before the deadline for the filing of my amended

complaint and that I now had to do it entirely on my own.

12. In her June 26,1997 letter (EXHIBIT D-5), Sagheb drastically changes her position from the uncertainty demonstrated at the meeting.

This time Sagheb authoritatively states that "Fraud" and "Conspiracy to Defraud" are the same with regard to the statute of limi tations. This despite of all the findings presented by me and showing that all California cases make a clear distinction between the two actions:

"In action for conspiracy to defraud, allegations supporting tolling of limitations period under delayed discovery rule as establishing timely filing under Code Civ.Proc. 338(d); plaintiffs as not required additionally to allege tolling under "last overt act doctrine" under Wyatt v.Union Mortgage Co. (1979) 24 Cal 3d 773,788, because plaintiff is required only to plead either alternative theory. Aaroe v. First American Title Ins.Co. (1990) 222 Cal.App.3d 124.

"Three year statute of limitations under Code Civ.Proc 338(d) for civil conspiracy based on fraud as commencing when last overt act of conspiracy completed. Livett v. F.C.Financial (1981) 124 Cal App 3d 413"

Sagheb desperately tried to prevent me from amending my complaint by lying and making her own interpretation of the law. Not able to find any caselaw, Sagheb refers to a case outside the State jurisdiction, where a plaintiff sued a car dealership for fraud, but also claimed conspiracy as a ninth cause of action and failed to sustain the conspiracy theory.

13. I have never authorized any of the pleadings filed with this court on June 30, 1997, by my former attorney Sohalia Sagheb.

14. I was not informed about that these pleadings were filed with this court on June 30 ,1997 till after the court hearing.

The letter dated June 26,1997 in which Sagheb informed me about the June 30,1997;8:30 a.m. hearing was received by me on Monday, June 30,1997, after the above hearing.

15. On Sunday, June 29,1997, I had a phone conversation with Sagheb. During the above conversation, Sagheb and I agreed upon the following:

A. I agreed to relieve Sagheb from the case.

B. We agreed that I would personally go to court, with the Substitution of Attorney Application prepared and signed by Sagheb (EXIBIT A), plus that I would file my First Amended Complaint, in Pro Per.

C. We agreed to that my wife Kristina Eva Arius, was to pick up the Substitution of Attorney Application, from Sagheb's Woodland Hills office, on June 30,1997, at noon time. We also agreed on that at the above visit, my wife would pick up the trial transcripts plus Loh's deposition.

EXIBIT B is a copy of Sagheb's Acknowledgment of Receipt, signed by my wife in Sagheb's presence, on June 30,1997.

16. During the June 29,1997, conversation-agreement, Sagheb said that she was planning to go to court with the Substitution of Attorney Application but that she was now relieved by my willingness to do the filing with the court.

17. At no time during the June 29,1997, conversation-agreement, did Sagheb mention the

June 30,1997; 8:30 a.m. scheduled court hearing nor that she was planning to file a Request for Extention of Time to file First Amended Complaint on my behalf.

18. The court record shows that on June 30,1997;8:30 a.m. a court hearing was conducted on Sagheb's behalf plus that Sagheb filed with the court a Request for Extention of Time to file First Amended Complaint on my behalf.

This in spite of our June 29,1997 agreeing to that I would personally go to court to file my First Amended Complaint in Pro Per, together with the Substitution of Attorney Application (EXIBIT A), personally handed by Sagheb to my wife in Sagheb's office on June 30,1997 (noon).

19. On July 1,1997, I filed with the court my First Amended Complaint, in Pro Per, together with the Substitution of Attorney Application (EXIBIT A) provided by Sagheb, in accordance with the June 29,1997 agreement, not knowing that Sagheb on June 30,1997, went behind my back and made additional and duplicate filings with the court, in contradiction with our June 29,1997 agreement.

20. On Saturday, July 5,1997, I was surprised to receive a letter from Sagheb containing copies of Sagheb's additional Substitution of Attorney Application, plus a Request for Extention of Time to file First Amended Complaint, both bearing the court filing stamp dated: June 30,1997.

21. Sugheb's filing of Request for Extention of Time to file First Amended Complaint is both unauthorized and frivolous.

On June 23,1997, Sagheb agreed to prepare a Writ of Certiorary on my behalf, in reference to the January 30,1997 appellate decision in the underlying action; BC25183.

Sagheb knows that the filing date for the Writ of Certiorary is July 23,1997, only 3 weeks away from her filing of a Request for Extention of Time to amend complaint.

Sagheb also knows that being in Pro Per, I don't have time for attending any court hearings nor making any additional amendments of my complaint.

Sagheb also knows that I have a very limited monthly budget and after having paid $5,000 to her, my recent legal budget is only $777, an amount not sufficient to retain a new attorney.

In her June 30,1997 Declaration filed with the court, Sagheb falsely claims that she was physically threatened by me during our June 26, 1997 meeting.

"Plaintiff's hands and arms were flailing about in my direction and although I do not want to accuse him of assault, I was indeed in apprehension of physical harm. The physical overtures that plaintiff was going to strike me renders continued representation of plaintiff by my office impossible."

Most interestingly, in order to get out of the case Sagheb is using the same argument being used by McNamara when he also wanted out after have destroyed my case.

It is possible that the level of my voice and gesticulation increased as I was unhappy and upset because of Sagheb's refusal to help me only 5 days prior to the deadline. But as I was seated 4-5 feet away from Sagheb on the opposite side of the desk, her claim that "my hands and arms were flailing about in her direction" is grotesquely unrealistic.

I have been brought up in a high class home practicing a highest respect for a woman. I never saw my father strike my mother and I have never stricken the woman I've been married

to. I was brought up to respect a woman and to always assist her in every possible way.

I could never physically threaten a woman and allow myself to descend to a level of such base human behavior.

In her June 30,1997 Memorandum of Points and Authorities, Sagheb makes a preposterous claim alleging spending 30 hours ($3,600) to research into C.C.P.337, 340.6, 338, statute of limitations, accrual and tolling.

It took me, a client, only 7-8 hours to research into the referred to areas, in such various sources as: Deering's Code of Civil Procedure; Cal.Digests; Cal.Forms of Pleading and Practice, and others.

Sagheb is a very dishonest attorney. Example:

The address 23942 Lyons Av,Suite 212, Newhall, stated in all the court pleadings, attorney-client agreement, and in all the letters, has been an empty office space with no name on the door from the day of the agreement (June 13,1997). The 1996 Phone directory shows that Sagheb once used the above address, indicating that she is no longer using it.

Furthermore, Sagheb's name is not included to the California Lawyers' Directory containing over 200,000 names.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 7th day of July,1997, at Los Angeles,California.

JOHN ARIUS